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WATER RESOURCES DEVELOPMENT ACT OF 1985

HEARINGS

BEFORE THE

SUBCOMMITTEE ON WATER RESOURCES

OF THE

COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

S. 366

A BILL TO AUTHORIZE THE UNITED STATES ARMY CORPS OF ENGINEERS TO CONSTRUCT VARIOUS PROJECTS FOR IMPROVEMENTS TO RIVERS AND HARBORS OF THE UNITED STATES, AND FOR OTHER PURPOSES

AND

S. 534

A BILL TO AUTHORIZE THE UNITED STATES ARMY CORPS OF ENGINEERS TO CONSTRUCT VARIOUS PROJECTS FOR IMPROVEMENTS TO RIVERS AND HARBORS OF THE UNITED STATES, AND FOR OTHER PURPOSES

MAY 10 AND 16, 1985

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WATER RESOURCES DEVELOPMENT ACT OF 1985

FRIDAY, MAY 10, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
Washington, DC.

The subcommittee met at 10:40 a.m., in room SD-406, Dirksen Senate Office Building, Hon. James Abdnor (chairman) presiding.

Present: Senator Abdnor.

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABDNOR. The Subcommittee on Water Resources will come to order.

As you all know, this subcommittee has worked hard for 4 years to achieve a consensus on legislation that provides for the crucial water related infrastructure needs of the Nation in a way which is both environmentally sound and financially responsible.

Time ran out on us in the 98th Congress, but I am prepared to go that extra mile this year to achieve passage of a comprehensive Water Resources Development Act.

After the experience of the last few years, I think it is time that the members of this committee and the Congress face reality. On the one hand, I hope the advocates of business as usual who have sought to continue the outdated policies of the past have learned that those days are gone. If we do not reform the cost-sharing policies of the Corps of Engineers, then we must face the growing prospect that the corps, which has served the public for 200 years, will become a mere caretaker agency.

On the other hand, we must also face up to the reality that it may not be possible to resolve all elements of water development policy at this time, and that it would be irresponsible of Congress to postpone action on the whole water bill because one or two issues—particularly inland navigation policy—cannot be resolved. To the extent there is a consensus on this legislation, we should move forward on those issues. We should not allow them to be held hostage to other issues.

After the subcommittee hears from Members of Congress next week, I will move to mark-up omnibus legislation in subcommittee as soon as possible.

Today, we are pleased to have with us the Assistant Secretary of the Army for Civil Works, Mr. Robert Dawson. Bob has worked very hard in the past year to develop an atmosphere conducive to negotiation with the Congress. I congratulate him for his efforts thus far. The administation's water proposals which were sent to Congress recently, constitute the first omnibus proposal ever made by any administration. This is a milestone for which I believe Bob deserves a great deal of credit.

Mr. Secretary, welcome to the committee. Your full written statement will be made a part of the record, and we ask that you just summarize it now, so that we may proceed to any questions members may have.

I have statements from Senators Stafford and Domenici which I will place in the record at this point. Hopefully, their schedules will permit them to attend the hearing shortly.

[The statements referred to follow:]

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

I am pleased to join you, Mr. Chairman, in order to discuss the civil works program of the Army Corps of Engineers.

Particularly, I want to praise the fine job you have done, and are doing, on this legislation.

As we discuss these issues, we all recognize the tough job we have ahead of us, a job to reconcile these bills. For one thing, there is the large disparity in cost. The two Administration bills carry a first cost of $3.7 billion; S. 366 carries a first cost of $13.6 billion. And then we face a House bill that may cost close to $20 billion.

But we are all seeking the same goal, legislation that we can pass into law, legislation that will move this important program forward.

Mr. Chairman, there are several items that I believe we ought to put into the Record. First, there is a letter to me from Mr. Dawson on various projects before us. Then there is a letter that was sent to me regarding hydroelectric add-ons at existing Corps dams. Since this policy obviously affects a number of projects before the Committee.

I am also including in the hearing record a letter sent to me on January 2, 1985, by the Office of Management and Budget. It provides a breakout of various projects in our bill, as well as the House bill. I would also ask Mr. Dawson to update it, in view of the Administration's legislative proposals.

Lastly, I wrote to Secretary Dawson on April 18, 1985, concerning several questions that were raised over the Mount St. Helens situation. To assure that we have a full hearing record, I ask that the letter, as well as Mr. Dawson's response when we receive it, be included in the hearing record.

Mr. Chairman, thank you. I join you in welcoming our witnesses.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Mr. Chairman, I am pleased to be here to hear Secretary Dawson outline the views of the Administration on this very important issue of water project policy.

First, I want to congratulate you, Mr. Chairman, for the fine job you are doing to keep the vital issue of water policy before the Senate. You are to be commended most highly.

I also wish to congratulate Mr. Dawson on what I understand has been his selection as Assistant Secretary on a permanent basis. Mr. Dawson, you will do a fine job, I am certain. You certainly have my support.

Today's hearing is important because the issues of cost sharing and user charges and cost recovery are key ones.

We can talk all we want to about water problems and the problems some states may face. But it is clear to me that we need to pump a lot of new, non-Federal money into the water resources program, or we are unlikely to have much of a program.

This was certainly made clear in a Wall Street Journal article, which appeared a week ago, and which I submit for the hearing record.

It is clear when you look at the decline in spending on water project construction that has occurred under each of our past five Presidents.

We, of course, could duck this issue. We could avoid the hard decisions involving higher non-Federal costs. If that occurs, I am convinced, we will simply watch this vital program continue to wither.

We must attack these tough issues in order to produce a bill the President will sign into law.

Thank you.

[The article referred to follows:]

[From the Wall Street Journal, May 3, 1985]

Power of Pork-Barrel Politics on Water Projects Slips as Environmental, Budget Pressures Grow

(By Ellen Hume)

Washington.—In the game of porkbarrel politics, Santa Margarita should be an easy winner.

This proposed $218 million, twin-dam project near San Diego is in President Reagan's home state and has his support. Attorney General Edwin Meese has written letters on its behalf. Retired Naval Reserve Adm. Robert Garrick, formerly Mr. Meese's top White House aide, has worked as a paid lobbyist for the project and owns property near the affected area.

To top that off, Santa Margarita is being promoted as a defense project. It would provide drinking water to the U.S. Marines at Camp Pendleton, as well as serving the avocado growers and real estate developers of northen San Diego County.

But Santa Margarita's prospects are fading. Federal funds for such undertakings, once the political lifeblood of Congress, have virtually dried up. If the project gets built at all, it probably will be scaled back to about half the original design, supporters say.

The saga of Santa Margarita shows how dramatically pork-barrel power has slipped since Congress's water barons rolled over President Carter in 1977, defying his "hit list" of canceled water projects. The merging of new budget constraints with growing environmental pressures has changed the politicis of pushing for the multimillion dollar projects of yesteryear.

POWERS DILUTED

The change is spurred by a formidable new alliance: The environmental lobby, which was at war with the Reagan administration just a few years ago, has begun working closely with David Stockman, the president's chief budget cutter. Their cause is aided by new evidence of long-suspected environmental problems, such as the polluted federal irrigation runoff fouling the Kesterson wildlife refuge in California's San Joaquin Valley. They are also using economics more effectively to challenge the costs and benefits of such projects as the O'Neill dam in Nebraska.

Meanwhile, not only are the great water czars gone from Congress, but their old powers have been diluted by committee rule changes. Note skeptics like Democratic Reps. George Miller of California and Robert Edgar of Pennsylvania are boosting their careers by fighting public works boondoggles.

"When I got here, in order to prove you manhood, you had to get a water project authorized and appropriated. You had to vote for bad projects in order to get good projects in," recalls Rep. Edgar, who is serving his sixth term.

"It's the end of the fat cat era, when it was just a question of a member calling his friend on the right committee and getting his project put in," says Robert Will, a water lobbyist, who is fighting for the Santa Margarita project. "We're being put on the spot to do a lot better job in justifying any project today."

The pork-barrel politicians have developed some wily tactics for getting around the new watchdogs. But even if they succeed the projects don't have the political rewards of past years—as former California Rep. Don Clausen's reelection battle of a few years ago showed.

Under pressure to prove he could deliver federal largesse to his Eureka district, the Republican congressman developed a plan to aid 100 homes threatened by coastline ocean erosion. He figured that if the houses were endangered, the road would be too. So he called the aid a "highway" project and persuaded Congress to bankroll it with the self-generating Federal Highway Trust Fund.

In the end, about $9 million was spent to save "at the most, about $1.5 million worth of tacky trailer homes," asserts Democratic Rep. Doug Bosco, who defeated

Rep. Clausen in 1982 despite his public works prowess. "It would have been better," Mr. Bosco says, "just to give everybody over there $30,000 each and tell them to get out of town."

APPROPRIATIONS DECLINE

Even Rep. Thomas Bevill, who runs the House Appropriations subcommittee on energy and water development, was nearly left high and dry on his lifelong dream project—the $2 billion Tennessee-Tombigbee barge canal to connect the Tennessee River with the port of Mobile, Ala.

When the Alabama Democrat knew he couldn't win the 1984 appropriations bill vote for the lst $212 million needed to finish the project, he simply omitted Ten-Tom as a line item in the bill, avoiding a showdown vote. Then he inserted language in the committee report directing the U.S. Army Corps of Engineers to complete the project "within funds available." There were just enough "available" funds included in the bill.

In defense of such tactics, Rep. Bevill says "there hasn't been a time in the history of our country when water projects have been more important." But the growing political mood against public works is apparent in the Corps of Engineers construction appropriations for water projects, which have slid from a peak of more than $1.6 billion in 1980 to an estimate of less than $900 million in fiscal 1985, the lowest total in 10 years.

Some believe private industry will pick up the slack. In Southern California, for example Parsons Corp. of Pasadena proposes to finance improvements for the Imperial irrigation district, which originally was a federal project. In return, Parsons would receive a share of the proceeds from selling Imperial water to users around the state.

The political tide has turned against costly public works projects, says Rep. Edgar. "The more my colleagues get angery at me" for fighting their projects, he says, "the more votes I'm getting back home.'"

Senator ABDNOR. Why don't you go ahead and proceed anyway you want, Bob.

STATEMENT OF HON. ROBERT K. DAWSON, ACTING ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS, ACCOMPANIED BY BRIG. GEN. C.E. EDGAR III, DEPUTY DIRECTOR OF CIVIL WORKS, OFFICE OF THE CHIEF OF ENGINEERS; AND DR. EDWARD DICKEY, DEPUTY FOR PROGRAM PLANNING, REVIEW AND EVALUATION, OFFICE OF THE ACTING ASSISTANT SECRETARY FOR CIVIL WORKS

Mr. DAWSON. Thank you very much, Mr. Chairman. I certainly appreciate your very generous comments during that statement.

I would like to introduce briefly on my right the Deputy Director of Civil Works, Brig. Gen. C.E. Edgar III, and on my left, Dr. G. Edward Dickey my Deputy for Program Planning.

As you indicated, I will summarize my statement for you so we can move ahead with dispatch.

Mr. Chairman, I am well aware of the key role that the full committee and this subcommittee, particularly under your leadership, has played in crafting legislation which has been so vital to developing our Nation's water resources and other infrastructure.

It is in the spirit of working with you to rebuild the Federal/non-Federal partnership that we present our testimony today. If we succeed, we can resume water development efforts to avert water crises in the coming decades.

The Department of the Army has worked hard during the past 4 years to develop a new means to move forward with the Civil Works Program executed by the Corps of Engineers. For over a decade, this program has been in a state of retrenchment as the traditional ways of authorizing and implementing projects have failed.

In spite of our and your efforts to date, we have been unsuccessful in attaining a new charter for Federal water resources development and management in partnership with project sponsors.

But I believe that there have been lessons learned on all sides, and there is reason for hope that we can get a bill passed to break this impasse.

The reason I am optimistic, Mr Chairman, lies primarily in the good work that you and this subcommittee did in the last Congress and the leadership that you have already displayed in this present Congress.

We continue to strive to reestablish a strong development program with cooperating States and local sponsors. Construction of 29 new projects are included, as you know, Mr. Chairman, in the fiscal year 1986 budget, 6 of which still require construction authorization by this committee and by the Congress.

While 13 of these projects had been included in previous budgets but were not acted upon by Congress, 15 are additional new construction projects based on newly negotiated financial arrangements.

We believe these projects demonstrate further the willingness and ability of local sponsors to increase their financial participation in new project development when a strong, productive project exists, a project sure to provide a return on their financial arrangements.

The 29 new projects represents a capital investment of slightly under $1.6 billion under the cost-sharing arrangements we have negotiated with sponsors.

Non-Federal funds will be used to finance almost $900 million or about 57 percent of total implementation costs.

Under a traditional arrangement, non-Federal funds would have been used to finance less than $200 million or about 12 percent of project implementation costs. With the Congress' support, this investment could be under way as early as October and begin to produce benefits within 1 to 2 years.

We see no reason to deny the project beneficiaries these benefits 1 day longer than they have already encountered, and we strongly urge your support to get this under way.

One nod from Congress, and this new work can be done.

Now moving to our comprehensive legislative proposal which you alluded to in your opening statement, Mr. Chairman, and which we submitted to Congress on February 20, some non-Federal contribution would be required for the construction of all Federal water resources projects.

The amount of that contribution would be dependent on the ease with which the non-Federal sponsor could recover its capital investment through user fees or other benefit-based charges.

The new cost-sharing objectives for collecting any legislative proposals are specific to individual project outputs or purposes.

We believe that it is essential to maintain consistency in cost-sharing by project purpose in the interest of treating all sponsors comparably.

Some members, we are sure, continue to be concerned that the new financing policies might favor wealthy regions and communities. They do not. The policies are tied to the flow of benefits produced by the project, not the wealth of the beneficiaries.

The approximately 60 projects we have recommended for construction authorization all have benefits that exceed their costs. Local sponsors should be able to tap a portion of these benefits to pay the required cost share as the benefits of the project are accrued.

Under the Army's legislative proposal, beneficiaries would pay a larger share of the cost of operation, maintenance, rehabilitation and replacement for all kinds of projects.

It should be noted, Mr. Chairman, that the levels of cost recovery proposed for navigation are substantially less than those first proposed by the Army. This represents a compromise between the sound economic principle that the beneficiaries of those commercial activities bear the costs on one hand and on the other hand, our desire, which I know you share, for an implementable proposal.

Let me further add that while we have worked hard to develop proposals that are economically and politically sound, we are certainly open to other proposals that will provide for similar levels of non-Federal participation in the funding of the Federal Water Program.

In addition to the cost sharing initiatives that I have outlined earlier, there are several other items I would like to mention. For one, we are seeking authorization, as I mentioned briefly before, of some 60 projects and activities having total implementation costs of about $4 billion. In addition, we are seeking new authorities to expedite project implementation and management.

I won't go into any more detail on those areas, except to point out again, I think in line with your opening statement, Mr. Chairman, that we submitted our inland waterway proposal in a separate package because we are very much aware of the special problems and sensitivities that exist there, and we certainly feel those problems deserve separate and individual focus.

To conclude, Mr. Chairman, our central focus continues to be on the reality of the water problems facing our nation and the need, the true need to develop the Nation's water resources in an efficient and timely way that at the same time faces our present budgetary realities.

These problems affect many individuals and many families in very, very tangible ways. Solution of these problems will produce economic benefits that can be measured and used to assist in the financing of projects during these times of severe budget constraints.

Your actions will have important and far-reaching impacts on this nation's well-being, and many citizens anxiously await revitalization of our civil works programs generally, and individual projects, as well.

I stand ready to work with the committee and with the Congress to move aggressively forward this year. In my judgment, the project beneficiaries, in many cases, are ready; the mechanisms are ready; and the time is right.

There are several very important things at stake here today, and you mentioned many of these in your opening statement. I don't believe it is overstating it to say that we are in a genuine win or lose situation now with the clock running out on all of these items.

First of all, we have at stake no less than the future of the Army Corps of Engineers Civil Works Program. You and we will decide in the next few weeks and at most, the next few months, whether the Corps Civil Works Program will be a declining, fading program or a full-blooded, strong program capable of addressing the Nation's water needs.

Second, also at stake is the credibility of the program which has been tarnished with the epithet of pork barrel, and if we are able to revitalize the program and ensure that the project selection process is dependent upon a true test of project benefits, we will be able to hold our heads high when questions are asked about whether we are spending the taxpayers' money on good, solid water projects with high benefits to the public.

Also at stake here today amd the weeks ahead is the survival of the authorization process itself. You are aware more than I of the pressure on the appropriations process to assume some of this committee's responsibility in an effort to get water projects moving ahead.

I believe this to be a very unfortunate turn of events, and I believe the danger will increase if we are not able to get an authorization bill moving.

As I have said earlier, I am encouraged that we can move ahead in the near future. Finally, Mr. Chairman, let me say that, as you know better than anyone in the Senate, we are at a very special time in the history of the Federal water program. We are at a time when clearly, the old formulas, the old ways of doing business have failed. There has not been a significant authorization bill for the corps since 1970, and the number of reconstruction starts has declined steadily over the past two decades.

New approaches are needed to make maximum use of the ability of non-Federal sponsors to capitalize on the very real benefits water projects produce and to do this in ways that will allow them to share the cost of Federal water development.

It should be clear to any observer of the Federal water scene that the level of federal funding that has been available in the past is simply not going to be available in the future.

We know that we can work together on this comprehensive legislation to work out new formulas, new charters, new authorizations and new authorities that are necessary to revitalize the Nation's water resources program.

As I said earlier, Mr. Chairman, I think the reason we are here at the witness table today with an authorization bill of our own and the reason that there is cause for optimism has been your leadership and the leadership of this subcommittee in wrestling with these very, very difficult issues.

I thank you again, Mr. Chairman, and would be open to any questions you may have.

Senator ABDNOR. Thank you, Mr. Dawson. We appreciate your kind words. I speak for the committee, but we all know that the development of a water bill is only going to take place when everybody gets on board, including the Members of the House and Senate and the President. That is not going to be easy. How we will come out on this, I wouldn't even venture a guess, but all we will do is keep on trying.

Your proposed legislation this year is in two pieces. You have the inland portion separate. I am not so sure that's good. We want to bring everyone together with this major legislation. It is not going to be easy at best, so we have to explore every possible means of how we can get a bill out. If we don't, we might as well quit. The Pentagon can play around year in and year out.

This Congress is either going to have water legislation coming up, or we will let someone else try it. We are going to hit road blocks. The administration insists upon user fees and higher and higher participation. Maybe that is the way we have got to go, but do you think when we get through, we can come up with something that will satisfy the administration and take care of what cost-sharing the locals can afford? There are limitations.

I hope in the legislation that, again this year, we take into account the fact that there are some States and some districts and some areas that are a lot better off than others and that we have to take that into consideration as to whether we build for the need and not just for those who have resources available.

Let me get parochial for a minute. The corps recently discontinued a study of the Gregory County hydroelectric power project. I wish you would comment on the economic viability of the Gregory project and the reason for discontinuing this study, if you would?

Mr. DAWSON. I certainly will, Mr. Chairman. As you indicated, the corps found that this is an economically feasible project but that it should not preclude non-Federal development under a FERC license.

We would hope that the State of South Dakota might assist potential non-Federal developers in putting together a financing package and acquisition of the license from FERC. The corps certainly has a considerable amount of technical information which could be made available to interested parties.

Basically, our position is that if there is the possibility of non-Federal development that that should be allowed to run its course first, and that is the direction that we are on now.

Senator ABDNOR. Don't you think it should have, in some cases, a new concept; maybe it should have a little leadership from the corps.

Mr. DAWSON. I think that certainly is a factor of the State. We would hope it would also be a leadership program.

Senator ABDNOR. I think you have to start, if you are going to show us the whole new proposal. I suppose we could at least do our own selling job. It would be another thing if they knew of your encouragement. I would be interested in seeing what might evolve from it.

Mr. DAWSON. I think that would be a good suggestion, Mr. Chairman.

Senator ABDNOR. Since this is a new proposal, I think maybe it will be a case of salesmanship. We have been at a standstill for a long time. I have a special interest in this particular project, I

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don't deny it, but it has a great potential, don't you think, for hydroelectric power?

Mr. **Dawson**. Yes, sir.

Senator **Abdnor**. We will move on, then.

What criteria were used for the inclusion of a project in the administration's bill?

Mr. **Dawson**. Mr. Chairman, what we did there was took every project which had made it all the way through the executive branch review process, and as you know, that involves the review by the corps, by my office and by OMB. We had some 62 projects that fit that category.

Senator **Abdnor**. How many did you have?

Did you send exactly 62 to OMB?

Mr. **Dawson**. No, sir. That is how many cleared all the way through.

Senator **Abdnor**. How many did your people feel had potential that you sent down there?

Mr. **Dawson**. Sir, there is another 10 that are over at OMB right now that we believe are sound projects, and we are optimistic that those will be approved.

Senator **Abdnor**. That is since you sent 62?

Mr. **Dawson**. Yes, sir.

Senator **Abdnor**. Anything you sent, all of them looked like they might be approved by OMB; is that right?

Mr. **Dawson**. With some few exceptions, Mr. Chairman, and the number of exceptions is quite small. I would be glad to give you for the record, if you like, a list of those.

But the track record is pretty good on those that we send, is very good on those that we send to OMB.

Senator **Abdnor**. Let me ask you something. I didn't realize this. I thought the big thing was to get the Chief's report out. What is wrong with the criteria that we had in S. 366 for a completed chief's report? Doesn't the Chief report that the projects are economically and environmentally sound?

Mr. **Dawson**. Mr. Chairman, the Chief's report is a very, very important step in the process, and one which we think is very important, but I think it is an even more valuable project to you and the committee and the Congress generally if my office has also reviewed it and if OMB has also reviewed it.

We found that we have attained some improvements through these two additional reviews. If that were not the case, I would not want to see us spending the time or OMB spending the time that we do on this.

I think it is a very valuable further challenging of the analysis so that when we come to you, we can be confident that we have a very solid and very sound proposal that you can have confidence in, as well.

In addition, this gives us an opportunity, Mr. Chairman, to give you assurance that the project does fit within the administration's program and it will go to bat for those projects when they come up here. I think that saves us a lot of uncertainty later on about whether or not the administration does, in fact, support an individual project.

Senator ABDNOR. Let me ask you this. The corps are the experts in this field. Certainly, they possess all the capabilities and expertise and people look into every little detail. What kind of a expertise does OMB have that they can overrule the groups that really know what they are doing?

Mr. DAWSON. Mr. Chairman, I appreciate the expression of confidence in the expertise, and it is well-placed confidence.

I have found that the OMB review is quite able.

Senator ABDNOR. What do they tell you?

Mr. DAWSON. Well, sir, they have economic knowledge and expertise that is very valuable to the process.

Senator ABDNOR. I don't mean to be hard to get along with, but what kind of economic information are they going to tell you that you don't already know?

Mr. DAWSON. Let me provide an example. For example, if we have a project that involves the acquisition of land as part of that project, OMB would have a perspective on what all of the Federal agencies are doing now that our experts would not have on that particular item of land acquisition. They can apply that expertise in a way that we could not. In a way, that genuinely would be very helpful to us.

So I would not want to understate the contribution. It is a meaningful review at OMB, and it is not a pro forma thing. I would be glad to be more specific on the record.

Senator ABDNOR. Yes.

Mr. DAWSON. I am not able to recall any more specific examples.

Senator ABDNOR. Provide it, if you will, for the record. I would like to have a table including all the projects cleared by the Chief indicating whether OMB or your offices had reviewed them and that the review is complete. Any objections to the project there are, I would like to know about them.

Mr. DAWSON. Very good. (See p. 40.)

Senator ABDNOR. How many favorable projects do you now have since the 62?

Mr. DAWSON. Mr. Chairman, as I mentioned, there are 10 reports that we have submitted to OMB.

Senator ABDNOR. How many?

Mr. DAWSON. Ten that we had submitted over to OMB, but in my office, we have some 50 reports that had come in from the Chief's office that we are working on now in my office.

Senator ABDNOR. How long will it take for OMB to get through those?

Mr. DAWSON. It varies, Mr. Chairman, depending a lot on the length of the report and the complexity of the project. But we have not found OMB to be a major delay spot on these reports, and I think as we begin to move on a bill, which you and I are both hopeful of doing, we could certainly attempt to expedite some of these moves.

Senator ABDNOR. Are you telling me, Mr. Secretary, that you are the only one that got around to approving projects over there, that you have been holding it up?

Mr. DAWSON. Well, sir, we have sent 62 forward, which are there.

Senator ABDNOR. That I understand.

Mr. Dawson. Those have all been cleared by OMB. I think my office does have a responsibility.

Senator Abdnor. I do, too. I think you do very fine. That is why I was wondering. You have sent 62 earlier that you have cleared?

Mr. Dawson. Yes, sir, and those have been cleared by OMB, as well.

Senator Abdnor. And you sent them another 10?

Mr. Dawson. Ten, and we have 54 in my office, and so I don't question the fact that my office has some responsibility to adhere to to move these forward. I might note, Mr. Chairman, in our transmittal letter when we sent the bill up to you, we very specifically noted that we might have additional and probably would have additional projects to add to the list of 62, which I think reflects the concern you are expressing.

Senator Abdnor. How long do you think it will be before you get the rest of them up there?

Mr. Dawson. Again, Mr. Chairman, I think it will vary. Some of these reports are very straightforward and don't require a great deal of review.

Others, though, are much more involved and require more analysis. I think what we could do is give you a detailed estimate on those for the record, if you would like.

Senator Abdnor. That would be great. Do you and General Edgar ever disagree over your decisions where he thinks one thing and signs off on it and you tell him it is wrong? That would be interesting.

Mr. Dawson. That has happened, Mr. Chairman, and if it didn't happen, then I think you would rightly question whether we ought to be spending this time on the review.

But I think there is a value to challenging the analysis at each step of the process, again, so we can give you, confidently, studies that are good, solid, defensible water projects.

General Edgar. Mr. Chairman, if I might, if I could comment a bit on that?

Senator Abdnor. Please.

General Edgar. Since you mentioned it, Mr. Dawson and I may have differing views on occasion. We certainly do, but I think that is healthy in the carrying on of the review process.

When the Chief's report does go over there, we certainly think it is a sound basis in terms of moving a project forward. But clearly, the review by higher authority does assure that all of the things do come out; that when it does get into the President's budgetary process, that the project is assured of receiving the necessary funding in the President's budget as it moves down the pike.

I think that is important.

Senator Abdnor. What do you gentlemen differ on? What is it usually on? Is it the design or the cost or the benefits? What are your differences?

Mr. Dawson. I think one area, Mr. Chairman, has been the benefits of the project, and sometimes the cost, as well.

I think the main thing we need to continue to look at is the analysis that is done in the field. The field people are very close to the project and sometimes have a strong desire—which we are glad that they have—a strong desire to move forward on a project.

But we need to make sure that that desire to do work and to cooperate with the locals does not lose sight of the need to have good, solid, sound analysis of the benefits; also, I think the policies that we are trying to enunciate and that this committee enunciates from time to time on just what the Federal interest is as opposed to the State or local interest.

Those are things that we need to take up as these projects come forward.

Senator ABDNOR. Let's say you both agree and send it up to OMB. Do you ever disagree with them, or are you all through with that then?

Mr. DAWSON. Let me say again that the disagreements that General Edgar and I would have are very, very unusual.

Senator ABDNOR. I am sure.

Mr. DAWSON. I would say the same thing about the OMB process. If we do our job correctly, which we pride ourselves on doing, then when we send something over to OMB, it should be very infrequent that they have any problems with it.

That is, in fact, the case. It is rare and unusual that those problems exist. But they do exist occasionally, and when they do, we think it is well worth that additional review so that again, we can send the best product possible forward to the Congress.

Senator ABDNOR. Once again, how many reports do you have now from the Chief that are signed off on?

Mr. DAWSON. I have in my office about 54 projects that the Chief has signed off. There are another 10 that have gone from my office over to OMB.

Senator ABDNOR. Very good. I just wanted to make sure.

I would like to know, Mr. Secretary, your proposal authorizes projects at a total Federal and non-Federal costs. In the last Congress, this committee used Federal cost figures only and provided for a cost-increase limitation in section 213.

S. 366 contains that same provision. I would like you to comment on why you have used the total cost figures when you would prefer employing total cost; why you would prefer employing total cost figures; and state your views on section 213.

Mr. DAWSON. Mr. Chairman, we would prefer that the total project cost be used because we think that gives a more accurate indication to the public and to the Congress of the true scope and size of the project.

But I have to say that we don't have any major problem with the way you have approached that. We certainly think your approach is a straightforward way to deal with it.

Now, in regard to section 213, this section, as you know, would impose a cost ceiling only on projects authorized in the bill which could not be exceeded except through increases in construction or land costs.

My recommendation to you on that, Mr. Chairman, is that there probably should be other modifications on that, as well, such as hydrologic factors and any other unforeseen factors. We think the idea of a ceiling is good, but we need to make sure that, in my judgment, that there is sufficient flexibility to deal with some of these unforeseen things that may occur.

If I might have General Edgar comment on that?

Senator ABDNOR. General Edgar?

General EDGAR. Mr. Chairman, if I might add a further thought to what the Secretary has said, when our feasibility reports come before the Congress, obviously, we do not have detailed engineering data associated with that, and that information proceeds as we continue with our planning and engineering.

We then gain more knowledge about the site conditions. I think from the corps' perspective, we certainly think the Chief should have some discretionary authority as Mr. Dawson has indicated, to develop a site so that the congressionally authorized outputs can be forthcoming in our design.

I think that we have got to be very careful that that discretionary authority does remain. It would certainly not be without congressional oversight, because as we come back to you every year with our annual budgets and your committee reviews the list, you know where we are going with respect to an authorized project.

So you could ensure that the intent you had in authorizing the project was being properly carried out.

Senator ABDNOR. Thank you.

Section 210 of S. 366 authorizes $5 million a year for the corps to provide technical assistance to municipalities for the rehabilitation of industrial sites and millraces for hydroelectric power. Could you tell us your position on this provision?

Mr. DAWSON. Yes, Mr. Chairman. In view of the Federal deficits that we are trying to grapple with, we would strongly oppose initiating any new programs at Federal expense.

I do think, though, that there is a role here for some nonfinancing assistance from the corps, sharing the corps' expertise; perhaps even doing some work for the non-Federal sector, but at non-Federal expense.

So in short, we don't think it would be wise right now to take this on as a new Federal program.

Senator ABDNOR. Would it be more acceptable if it had some cost sharing in it?

Mr. DAWSON. Absolutely.

Senator ABDNOR. Again, in our bill, S. 366, section 220 establishes a $50 million a year grant program for nonstructural flood control and water conservation programs.

Would you comment on this, Mr. Dawson?

Mr. DAWSON. Yes, Mr. Chairman. We are strongly opposed to this provision, as well. It is a very costly one, and the corps has already prepared, as you know, a number of detailed brochures and manuals on this subject of nonstructural flood control.

Other Federal agencies such as FEMA, I know, have done some work in this area. Now, on the second part of this, having to do with the water conservation, the Corps of Engineers currently integrates conservation practices into all our projects providing water supply.

We think that the States and the local units of government have the primary responsibility for providing adequate supply of water locally, and we believe it is in their own best interest to promote the efficient use of water supply. We think that providing Federal grants to the States would be an unwarranted expenditure of Federal funds, again, particularly in light of the deficits that we have.

Senator ABDNOR. Would you think differently if there were some cost sharing or reimbursable dollars involved?

Mr. DAWSON. Sir, certainly, that would make the provision better, but on both hydroelectric, which was your last question, and on water supply, we feel that those are either local responsibilities or highly vendable responsibilities where the cost share really ought to be 100-percent non-Federal.

Again, I think any cost sharing would make these more acceptable.

If I might, Mr. Chairman, I would like to ask General Edgar to add to that.

General EDGAR. Mr. Chairman, I might point out that the corps has done nonstructural work and that is part of one of our planning alternatives. As a matter of fact, in the past few months, the President gave an award to our New England division for the Charles River nonstructural project in the Boston area.

I can provide the details of that for the record but I think it is clearly indicative that when we go through, we are looking not only at structures, but other opportunities, as well.

Senator ABDNOR. Very good. If we need those, we will get back to you on them.

General EDGAR. Yes, sir.

Senator ABDNOR. Mr. Secretary, I have a large number of other questions which I would like to have your views for the record. Rather than take up everyone's time, it is getting late, and there is a long list of technical provisions. I would ask that these questions be provided to you and they and your responses will be included in the record.

Mr. DAWSON. Very good, Mr. Chairman.

Senator ABDNOR. Can we go to cost sharing for a minute? Regarding the cost-sharing provisions of the administration's proposal, my understanding is they apply it to the Corps of Engineers only and not any other agency. Would that be correct?

Mr. DAWSON. Mr. Chairman, our bill, of course, was drafted only to effect the Corps of Engineers projects and programs, and we did that, of course, because that is our responsibility and also not to create any jurisdictional fractures among the committees.

I do believe, though, that the same cost-sharing principles that are embodied in our bill will, in fact, apply to the other agencies. There are differences, as you know, in the programs among the different agencies, Interior and Agriculture, for example.

But again, I am confident that with the OMB stewardship of all of the programs, that the same cost-sharing principles will, in fact, be applied to all agencies.

Senator ABDNOR. I can assure you that the projects we have pertain only to our cost sharing and our portion and our part of the bill.

Mr. Secretary, let's talk about port policy. We are getting closer on that. It seems to me that your proposal and S. 366 have basically two differences. First, you would recover a larger share of new project costs than is proposed in S. 366; and second, you would recover a high level of the O&M costs immediately, while S. 366 proposes there be a Presidential commission to study port users fees.

On the first point, Mr. Secretary, I believe we have a difference of degree, not direction. This is a difference which reasonable men, I hope, can reach a consensus on at some point. I don't want to belabor the differences, but I want to emphasize here that S. 366 does require cost sharing for new port projects where none is now required by law. I believe this is a considerable reform measure. Don't you agree that we have come a long way with S. 366?

Mr. DAWSON. I certainly do, Mr. Chairman. I think this subcommittee and your leadership, particularly, has blazed the trail in the port development arena. I think the reason we are here with optimism and hope of getting the bill is because of the hard choices that you folks made last year and moved us ahead.

As you mentioned, S. 366 recognizes the need for substantial non-Federal participation, and our disagreements are not over that principle. We are 100 percent in agreement.

The issue that you have stated is simply how much should be paid for new development, and also, the timing of the implementation of the fees. I think your bill does represent a very reasonable basis for further dialog between the administration and the Congress, and we are anxious, Mr. Chairman, as I know you are, for that dialog.

Senator ABDNOR. Well, I hope to give you a chance to have that dialog before we get too far along here.

Let's talk, then, about port users fees. I believe you had a less than pleasant experience with the Finance Committee on this matter last year. I believe you are aware that a number of my colleagues, both on and off this committee, were extremely confused on this subject. For many of them, it is not that they oppose fees; it is that fees must be of a certain type that most effectively favor one type of port or one type of cargo over another. I am sure you are aware of this, at least to some degree.

I must confess to you that in this proposal, I see the hand of the budget director, and I see a proposal which is designed to bring in a few extra bucks regardless of how it is accomplished. Let me hear your thoughts on all of this, where all our problems are coming from.

Mr. DAWSON. Mr. Chairman, I think you touched on one of the toughest problems we have, and that is bringing the ports together and finding a proposal that will be acceptable enough to enough ports that we can move ahead.

I was, as you pointed out, over there at the Finance Committee about a year ago. You were there, as well. I followed your testimony, and I think your statement that day, as I remember, you were speaking without a prepared script, and you made, in my judgment, one of the most persuasive arguments at that time for going ahead and facing the realities that were before us then.

As you pointed out that day, as I recall, those realities were not going to get any better for Federal involvement; in fact, they would probably get worse. I think that was ironic in that we are in a situation today that is no more conducive to the Federal environment.

Let me just take a moment. I think it would be helpful, Mr. Chairman, to talk about the administration's proposals. As you know, we would require that each port be responsible for paying its own operation and maintenance costs up to a ceiling amount, and the purpose for that ceiling amount is to avoid any upheavals or displacements among our various ports. This proposal would raise several hundred million dollars annually, and so it is a significant contribution to deficit reduction.

I don't mean to belittle that budgetary aspect of it, because it is a significant amount. With regard to the kinds of charges that ports should impose to recover their part of the maintenance in the channel, we believe that the principle of leaving the choice up to the ports themselves is a sound one. Just as ports now have a great deal of discretion as to how they recover their other costs, they should have flexibility here, as well.

In fact, if you look at the structure of charges that are in place in ports today, you will see substantial differences among different ports in their pricing structures and how they collect various fees. While the addition of the costs for harbor maintenance imposes only a very small additional amount on the ports, it is no reason, in my judgment, to deny the ports the full flexibility with regard to how they recover these costs.

So, basically, that is how we see the problem at this stage.

Senator ABDNOR. How will you incorporate those fees into your proposal, specifically a certain kind of fee. The proposal proposes a new rate here and another one somewhere else. How are we going to do that under your proposal?

Mr. DAWSON. Only our operation and maintenance part of it, Mr. Chairman, as opposed to the new construction.

We, again, would like to leave that as open as possible, and we don't know what type of fees for a particular port might be imposed.

Again, I think the more flexibility we can leave for each port, the better.

Senator ABDNOR. I have a hard time thinking that is a very successful proposal. You are going to come up here and ask us to buy a pig in a poke not knowing what we are doing?

Mr. DAWSON. Certainly that is one way to look at it, Mr. Chairman, and I can understand your concerns on that.

I think, again, the principle of leaving maximum flexibility with the ports is worth some uncertainty. I think we would give that maximum discretion. We are, in fact, giving them as large a poke or as large a bag as we can give them and then let them implement it in a way that they think best.

Senator ABDNOR. I guess you will have to pardon me, but I just completely disagree with you and the corps and who ever put this idea together. I have talked to an awful lot of people from the major ports. I can tell you that I don't think any of them are asking for the kind of stress you are suggesting they have. I don't quite know myself how in the world you can bring anything out of this, other than chaos.

I think we have to do better than that, if we are going to sell the committee on this proposal. We have got to find some way to get the port people together on it.

They are going to come back and say, "This isn't what you told us. This was not our intent." We have got to come to some kind of agreement before we get done. I think it can be done. Staff worked a lot more on it than I have. I think we are getting closer and closer. We will be working together here. If we have our minds made up ahead of time, maybe we can come up with this package.

We still think the study had a lot of merit. I see so many studies come out of Congress that when I see a good one, I like to see it tried sometime. I think it is worthwhile.

Mr. **Dawson**. Certainly, Mr. Chairman, we are anxious to move ahead and, as you say, there are good and bad studies.

Senator **Abdnor**. Why did you leave these charges in, because you really don't know yourself? Don't take that wrong, but you really don't, do you? You don't know what will work and what won't work?

Mr. **Dawson**. Well, sir, we certainly don't have all the answers. I would like to ask Dr. Dickey, who brings our program picture to the table today, to say something in a moment.

I do think that we want to move ahead and that perhaps we don't have 2 years or so to spend on a study. However, I certainly concede that we don't have all the answers. Let me ask Dr. Dickey to elaborate on that.

Mr. **Dickey**. Mr. Chairman, if I might point out that I think much of the difference between the administration and some of the other perspectives that we have heard on this question really deals with the question of operation and maintenance cost recovery.

Now, the administration's proposal is for a port-specific cost recovery that each port is responsible for paying the cost of its own operation and maintenance up to the ceiling amount.

Some of the other proposals that have been considered by the Congress deal with a systemwide operation and maintenance recovery, a uniform-national fee.

So in the case of the administration's proposal, I think that there is really not an objection to allowing each port to tailor its form of cost recovery. Certainly, we know in the case of improvements, the ports insist——

Senator **Abdnor**. Can I stop you?

Mr. **Dickey**. Yes, sir.

Senator **Abdnor**. Three years ago we had a bill that had 45 votes against it. I think that tells us something. I hope you take that into consideration when you make these statements. Whatever you propose we have to sell up here, and if you are serious about getting a bill out, and it has 45 people that don't like it, you better be looking at something else, I think.

Mr. **Dawson**. Mr. Chairman, I think you have touched on another of the reasons that we took the flexible approach in leaving this as much up to each port. I think if we propose a specific approach, then as you point out, it is not going to be acceptable or as desirable for some port or other or group of ports. So I think in a sense, we are pulling in the same direction on that.

Senator **Abdnor**. That is true, but what you are talking about doesn't seem to have a great deal to do with what we are confronted with. I think it is something we can get into later and we ought to keep moving along here.

I didn't mean to shut you off, Doctor.

Mr. **Dickey**. I just wanted to say, Mr. Chairman, that in the case of a systemwide fee, then you do get into the discussion of whether it should be a tonnage fee or an ad valorem fee and so forth. I quite agree that there is not a consensus; there is a wide variety of views there.

I think that the virtue, frankly, of the administration's proposal in that it begs that question, it leaves the mechanism up to each port.

But that only goes with port-specific cost recovery. If it goes to a systemwide fee, then obviously, the Federal Government has to decide what form that fee is going to take. I am just saying that is the difference between a systemwide approach versus the port-specific approach.

Senator ABDNOR. We will pursue that.

Let me go to the inland subject matter. I am curious to see how an additional 70 percent recovery would be arrived at in the original proposal. It seems to me that you could have done it two ways; first, you could have had a long series of discussions with the OMB over how much to ask for, in which case, options would have been presented for various recovery levels, and 70 percent was chosen. If this is the case, I want to know why not some other levels. Is that what happened?

Mr. DAWSON. Mr. Chairman, the way that works, to be very candid about it, was that we had started out, as you know, 4 years ago looking for 100 percent recovery, and we realized that we needed to move in a more implementable direction.

So the recovery amount, the amount we felt we had to produce given our recognition that our inland waterways do produce very large benefits for the users, we arrived at that amount and then the mechanism, that is, the necessary level of user fees, was derived.

What I would like to do, Mr. Chairman, with your approval, is ask Dr. Dickey to go into a little more detail on some of the economic considerations involved here.

Mr. DICKEY. Mr. Chairman, it is correct that we chose the amount, the projected receipt level and then asked what is the best mechanism to recover that amount. As reflected in earlier administration legislative proposals, we had come to a really very broad consensus within the executive branch that a ton-mile fee was the appropriate kind of charge. A charge was taken into account, both the weight of the commodities moved and the distance that they are moved.

The way the mechanism works, this time, we arrived at the desired receipt level, which approximates 70 percent of the cost, and then set the ton-mile fee, and that is 1.5 mills per ton-mile as that fee which is necessary to generate the desired revenue.

Senator ABDNOR. The only problem I have is that this is really going to hit agriculture right in the teeth. I remember 2 years ago at that time the CBO Director was in here, Dr. Alice Rivlin. I have great respect for her. I know she is a really talented person.

She didn't have the slightest idea how much profit goes into a bushel a week. Some of these people who get a nickel out of it think they have the world by the tail.

I think this is a very unequitable recovery scheme, and one probably as unequitable as you could put together.

We are going to have to have long and hard discussions on this before this committee is going to sign off on something like that.

Can you tell me why the concepts developed by this committee in the last Congress regarding a users board was rejected, if it was ever considered at all?

Mr. DAWSON. Mr. Chairman, as I recall, the basic problem at that time was that the concept, in our judgment, didn't generate enough revenues in the short term. It left a lot of uncertainty as to the form future cost recovery would take, and we felt, too, that the Congress ultimately would be willing to turn over to the executive branch the decision regarding what form cost-sharing would take.

Let me say, though, that I think the user board concept which you first articulated is a reasonable one, and in our bill, we do have an advisory user board that I think would play a very important role in the process.

Senator ABDNOR. I just don't think it is a well thought-out proposal. You provided a table to this committee on cumulative impacts of all the administration-proposed user charges, and you indicated that the proposed inland charges would raise the price of a bushel of wheat by 6 cents on the world market. Other fee proposals would raise the price another 2 cents.

Mr. Secretary, do you have any idea what effect this would have on the ability of this country to export grain? Let me tell you, where inland waterway transportation exists, it is a competitive force on the railroads. Should barge transportation costs increase, railroad and trucking rates would go up to reflect similar increases. Thus, the administration proposals will have an impact on the costs of moving all grain and oilseed crops.

Farmers are price takers, Mr. Secretary, not price makers. That is where the first problem comes in. They can't pass along increased production and marketing costs ultimately to the consumer. They ultimately do not meet the budget. The prices they are getting today is no more than the past several years.

In those years of huge inflationary increases, farmers were going the other way. It is amazing that they didn't get into the position they are in right now a lot sooner. It is only because of their great productivity and ability to cope with the problem.

Foreign customers are unlikely to absorb the increased fee, because they will shift purchases to other nations. Agriculture is an important part of this country. Each year for the last 3 years, you will find this country has had a smaller percentage of their foreign export marketed. There are other problems nationally involved other than this, but if you toss this baby on top of it, then you really have big problems.

We are losing out because other countries are underselling us. Last night we voted together on the concept of an export PIK, trying to find out some way to keep the prices in line with other countries so we can still sell them. Then you come along and heap on more prices with costs under any condition which they couldn't recoup. We compete with products at cost on a destination basis.

You have all other kinds of costs, just many problems I can talk about. The intent to pass the user fees to overseas markets isn't going to work. I can certainly tell you that.

There are only two possible alternatives for the user fee proposal. Either the producers will absorb the cost of the fees, or the United States will continue to lose markets for its grain. That is your choice. I can assure you that it is not going to be passed on to other countries. I just want you to keep that in mind. To me, I don't accept either one of those proposals. It just can't be done at this time.

What I really find upsetting is that on a per ton basis, these inland fees will be levied on farm commodities at a higher level than any other commodities using the inland system. In fact, they will be levied at a rate 4½ times as high as petroleum, 3 times as high as coal, and 3 times as high as chemicals.

Do you think it is fair to have the farmers pay the brunt of navigation cost recovery when the food margin is so fragile in comparison the inland waterway system users.

Mr. DAWSON. I think, Mr. Chairman, you have hit there on some very, very genuine problems.

I would like Dr. Dickey in a moment to go into some detail on how we have wrestled with some of these problems in an attempt to be responsive. I know you have spoken many times very strongly about the plight of the farmer and the plight, particularly, as it might be exacerbated by this proposal.

What we are up against, I think, is the need to improve our inland waterway system so that those same farm products can be gotten to the market with the reality that the Federal funds aren't available like they were before.

So we are trying to find a way to come up with those funds in order to move ahead.

But I would like to ask Dr. Dickey if he would elaborate on the economic aspects of those.

Mr. DICKEY. Let me say, Mr. Chairman, that I believe the administration's proposals for user fees on the inland navigation system, have to be understood in the broad context of the whole administration program; that first of all, I think we have to recognize, as a general principle, that promotion of exports based on subsidies is just not sound public policy; that the resultant distortions in the price mechanism that result are just not consistent with vigorous economic growth.

So I think that there is kind of a microeconomic argument to be made in the sense that subsidies are just not a good idea.

But I think you also have to understand in the broader context that the administration's proposal here for user fees is just one element in the total debt reduction program that the administration is proposing. We have to ask, Why do we want to reduce the deficit? We want to reduce the deficit so we can bring down interest rates so we can reduce the value of the dollar.

It is true that these fees that we are proposing are not insignificant in the sense that, as you point out, 2 percent of the delivered price is not insignificant in terms of, as you work it out, in terms of what the impacts are.

But I do suggest, Mr. Chairman, that we are well aware of the amount the Federal dollar has fluctuated in value; that the increase in the value of the dollar has been much, much more than 2 percent. So to the extent that through the accumulation of all of these different debt reductions proposals, we can reduce the value of the dollar, we can improve our situation in world trade.

It seems to me that the value of the dollar is much more significant in establishing our trade position as opposed to these specific user fees which accrue to individuals or to certain segments of our export community.

Senator **Abdnor**. Doctor, I think I could name a lot of things that I think are even more important than that in world trade. One is to quit putting embargoes on and ruining our markets. The inflation rate, if it had ever hit any business, it has certainly hit agriculture. This seems to fail in other areas. Where we have dire emergencies and problems, they step in and recognize that.

The minute we go into a deep recession in this country, we very rapidly come up with compensation of unemployment and things that cost billions of dollars. It makes these water projects look like nothing. We think that is all right. When you think of the contribution that agriculture makes not only to this country but to the world, I can't see considering at this time proposing this preposterous suggestion. I call it that because I feel so strongly about it.

People have become used to cheap food policy, I guess, and I am afraid even the Government is concerned about keeping it that way. I have spent many, many years on the Joint Economics and Agriculture Committees, and I found a problem once again. I got the consumers in there, because I wanted everybody there. I couldn't get them to say they ought to pay more for food. That is their general concept. The farmers have been eating this for a long time, and the Government has helped with their payments, I will grant you.

But it helps the consumer every bit as much. In the meantime, the State Department is running, Defense is running our agriculture export business, that has created a lot of problems and losses of our markets. I can cite situation after situation. You can't balance this budget by bankrupting the American farmers and making the farm exports less salable in the world market.

So even though I know you are well-intentioned, I just think it is an unacceptable danger to farmers at a time when they need help, and not platitudes about reducing the subsidies.

I guess that tells you where I am coming from. I don't know if I speak for all the committee or not.

Mr. Secretary, I do want to thank you again for appearing here today and testifying on one aspect of the administration's position, which I feel is the only sensible way to proceed, and that is the separating of navigation from the rest of the package and proceeding with two bills.

I would like to see something happen around here with regard to these water projects being built. I think it is necessary if we are going to enact a water bill, because it isn't that we haven't been trying to bring our people together. Navigation policy reform is one of the most contentious issues I have seen in all my years in public life.

The subcommittee developed a comprehensive reform of inland navigation policy 2 years ago. That proposal was wrongly criticized and gutted by the later recommendations of the Finance Committee. That proposal survived a vote to impose more stringent recovery measures on a tie vote in markup by the Full Committee on Environment and Public Works. That brought out a comprehensive compromise which received lukewarm support at best. This has been and remains an issue where there are hardened and well-defined positions which totally lack common ground.

I don't believe the administration's inland proposal is reasonable or passable. No proposal which increases the market price of a bushel of wheat by 6 cents on the average is going anywhere in this Congress. I would almost guarantee that.

At the same time, there is no reason that an omnibus water bill should languish year after year because of the gridlock of inland navigation.

I believe that except for inland navigation, we have a basic consensus on this legislation, and that 9 years is long enough for the Nation to endure a paralysis on water development.

Therefore, let me make my intentions clear. I hope and I intend, let me say, to mark up this legislation in the very near future. I intend to try to separate out the inland provisions in the process and to proceed with separate inland legislation at a later date when the comprehensive proposal appears more promising than at the present. I am opposing the inclusion of any inland projects in this legislation under these circumstances. To do otherwise would make the passage of the bill impossible.

I am too busy to fool around with something that I don't think is going to pass. If we want it to pass, we will separate out the inland fee. They can fight it out. There is no sense in stopping all water projects while we try to work that out. I don't know if you agree with that.

Mr. DAWSON. Mr. Chairman, I think those are well-stated and right on target comments. If I might, I have not given General Edgar much opportunity to speak. I think he might have a comment before we adjourn.

Senator ABDNOR. Please do.

General EDGAR. Mr. Chairman, thank you. I would just like to say that I strongly believe as you do and as the Secretary has stated that the country clearly needs a water bill, and the sooner the better.

It has been 1970 since we last had an omnibus bill for construction. There are still many good projects out there that do need to be built. The situation has certainly not gotten better with age during the intervening time since 1970.

I think clearly indicative of that are the projects the Secretary talked about earlier this morning in his discussion with you.

The Army bill contains good, solid projects across the spectrum of the work the corps does, and it has good geographic distribution. Mr. Dawson mentioned that the Civil Works Program is at stake. I agree with that. The corps has civil works because of the mobilization base that it provides the national defense, and I think we are in the margin now.

What I am talking about in that case is the technical expertise and the management capability that the corps has that goes along with the civil works responsibility.

So we are not only talking about the need to move long-needed water projects for the local communities and the folks out there that you and I have talked to over the years, but we need to maintain the mobilization base, the national resource that the Corps of Engineers provides to the country.

So I hope that as the discussions continue in the days ahead a water bill most certainly will be forthcoming. The country needs that water bill, and I share the Secretary's view of working with you to see that that comes about.

Thank you very much.

Senator ABDNOR. Well, thank you, General. I would concur with what you are saying. Water comes to us in many different ways in our life, and we are letting time go by. Maybe it was pork barrel in the past and nothing got out and we would come up with what is necessary. I am telling you, we can't sit around and wait like we did in the energy crisis.

We better get moving, and it is not that easy to solve. It is going to happen. It is just a matter of time. We keep eating up this time, and it is ridiculous. We will want somebody down the years, and the rest of the people out in America are going to wonder what in the world we were doing when this was happening.

No one recognizes it now, but we are down there where we should know. Every once in awhile, people get to wondering about water and whether they can water their lawns and whether they would have enough for industrial use. While we could be working on it, we have been at a stalemate.

I hope we wake up to that fact and come up with some answers. Thank you all very much. Without objection, I am going to submit some statements and questions for the record.

The meeting is adjourned.

[Whereupon, at 12:02 the subcommittee was recessed, subject to the call of the Chair.]

[Mr. Dawson's written statement, responses to additional questions, and the bills S. 366 and S. 534 follow:]

STATEMENT OF ROBERT K. DAWSON
ACTING ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
BEFORE THE
SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

INTRODUCTION

Mr. Chairman and members of the Subcommittee:

I am Robert K. Dawson, Acting Assistant Secretary of the Army for Civil Works and I have with me today Brigadier General C. E. Edgar III, Deputy Director of Civil Works, Office of the Chief of Engineers, and Dr. G. Edward Dickey, my Deputy for Program Planning, Review and Evaluation.

I am pleased to be here today to discuss the Administration's proposed omnibus legislation. It is in the spirit of working to rebuild the Federal/non-Federal partnership that we present our testimony today. If we succeed, we can resume water development efforts to solve water problems in the coming decades.

This year, for the first time, an Administration has prepared and forwarded to Congress a unified water resource package. On February 20th, I transmitted to Congress two proposals, the Water Resources Development Act of 1985, which constitutes the Administration's omnibus legislation, and the Inland Waterways Developent Act of 1985, which covers the inland waterways system. Both of our proposals were introduced by Chairman Stafford, by request, on February 28th and April 22 (S. 534 and 967) and were introduced by Congressman Howard, by request on March 19th (H.R. 1557 and 1558). If enacted, these bills would not only break the current logjam in proceeding with worthy projects, but would also establish cost sharing policy for all project purposes addressed under our civil works authorities.

The legislation which we have proposed would accomplish three objectives: (1) authorize more than 60 projects, six of which are proposed as new construction starts in the President's budget in FY 1986; (2) provide for substantial navigation cost sharing and cost recovery as well as new financial arrangements for other project outputs; and (3) provide new authorities to facilitate efficient Federal water development and management. It sets forth a new charter for water resources development and management by the Federal Government in partnership with project sponsors.

We continue to strive to re-establish a strong development program with cooperating States and local sponsors. Construction of 29 new projects are included in the FY 1986 Budget, six of which require construction authorization. We have negotiated cost sharing and financing arrangements for all of these projects and have obtained agreements to incorporate cost sharing as contained in our proposed legislation or as finally enacted by the Congress. We believe these agreements demonstrate further the willingness and ability of local sponsors to increase their financial participation in new project development when a strong, productive project exists, a project sure to provide a return on their financial investment.

The 29 new projects represent a capital investment of slightly under $1.6 billion. Non-Federal funds would be used to finance almost $900 million or about 57 percent of total implementation costs. Under traditional arrangements, non-Federal funds would have been used to finance less than $200 million or about 12 percent of project implementation costs. With the Congress' support, this investment could be underway as early as October and begin to produce benefits within one to two years.

Before discussing the details of our proposed legislation, I would like to note that there are a number of areas where our legislation is in substantial agreement with S. 366. Our disagreements lie primarily in the level of cost sharing for some types of projects, the new program areas your legislation would introduce and in the numbers and types of projects which would be authorized.

We agree that additional cost sharing should be applied in the cases of deep draft navigation, flood control and recreation. We also agree that the "ability to pay" concept should be considered for some types of projects, but believe that this will have a minor impact, limited to financing arrangements, because of the very real economic benefits produced by Corps projects. Assignment of 100 percent of operation and maintenance costs to non-Federal interests for all non-navigation projects is a major area of agreement.

Another important area of agreement is in the two-phase planning process where the first or reconnaisance phase is at 100 percent Federal expense and the second or feasibility phase is shared 50 percent by the study sponsor. We have this process in place, but are not yet implementing the cost-sharing provisions for the feasibility phase of studies. However, study sponsors must agree to cost share at such time as this is required by

Congressional action or when required administratively. Our actions to date constitute a minimal first step and we are encouraged to see both the Senate and House omnibus bills with similar provisions. We strongly urge your continued support on this matter.

We are in agreement that changes need to be made in the deauthorization of projects which will never be built and have proposed improvements in the studies undertaken as part of the current process. The new deauthorization process established by S. 366 may be just as effective.

Other areas of general agreement include: some kind of fast tracking provision for deep draft navigation; modification of local cooperation requirements where they conflict with State constitutions; removal of some of the subsidies permitted by the Water Supply Act of 1958; and, application of the current rate of interest for Federal borrowing when the non-Federal share of project costs is repaid over time. We would like to build on all of these areas of agreement to arrive at a bill which is acceptable to all parties.

COST SHARING POLICIES

General

Bills addressing the issue of cost-sharing were developed during the the last Congress by you, Mr. Chairman, and the House authorizing committee and have been reintroduced in this session. While both bills endorse the basic goal of increased non-Federal financial participation in project development and operation and maintenance, they do differ in the extent of non-Federal cost sharing and financing and, indirectly, in the role of the Federal Government in the construction, and/or operation and maintenance of projects with certain outputs. Under our legislative proposal, some non-Federal contribution would be required for the construction of all Federal water resource projects. The amount of that contribution varies by type of project depending on the ease with which the non-Federal sponsor could recover its capital investment though user fees or other benefit-based charges. For example, for fully vendible outputs, such as hydropower and municipal and industrial water supply, 100 percent recovery of costs, as is now required by law, would be continued. For outputs such as flood control and general recreation, which are not fully vendible, the historic level of cost sharing has been increased to provide a more equitable balance between Federal and non-Federal interests while, in our view, still encouraging the advancement of meritorious projects. For navigation, a major share of the assigned costs for this output is proposed to be borne by non-Federal interests. The level of Federal funding being retained for navigation is sufficient to ensure that a national interest is preserved in the development of deep-draft and shallow-draft channels and harbors along our coasts, on the Great Lakes, and on inland waterways.

Starting in FY 1986, under our legislative proposals, beneficiaries would pay a larger share of the cost of project operation, maintenance, rehabilitation, and replacement. Non-Federal sponsors will be encouraged to recover their share of these costs through user fees or any other mechanism they desire, so as to promote the principle of "beneficiary pay" as has been encouraged by the President. In all cases, we will maintain consistency in cost sharing by project purpose in the interest of treating all sponsors comparably.

Ports and Harbors

For port and harbor projects, including ports on the inland waterway system, new construction, post authorization planning, and project rehabilitation and modification, the non-Federal share of costs would fall into one of two categories, depending on the authorized project depth. For all port projects with a depth of 45 feet or less, the non-Federal share would be 70 percent of project cost. For those projects with a depth of more than 45 feet, their share would be 70 percent of the cost associated with going to a depth of 45 feet, plus 100 percent of the added cost of going deeper than 45 feet. The traditional local sponsor requirements to provide necessary lands, easements, rights-of-way, relocations, and dredged material disposal areas would still apply, but costs associated with these requirements would be credited toward the non-Federal share of project cost.

These construction cost sharing percentages reflect the continuing national interest in construction of ports 45 feet or less in depth (30 percent Federal share) and the narrowly focused nature of benefits from deeping to greater than 45 feet to accommodate a few specialized commodity movements. Historically, the average non-Federal contribution has been about 17 percent, generally consisting of the necessary lands, easements, rights-of-way, and relocations.

This cost recovery will help promote sound investment decisions regarding future harbor improvements. One test of a project's feasibility should be the willingness of the direct beneficiaries to pay at least a part of the cost. Moreover, significant participation of non-Federal sponsors in the financing of deep-draft harbor improvements is essential if we are to have a workable new improvement program in this time of Federal budgetary austerity.

For project operation and maintenance, the non-Federal responsibility would be based on the authorized depth of the project and the amount of commercial tonnage loaded and unloaded at the project. For projects with authorized and maintained depths of 14 feet or less and for projects with greater depths but with an average annual tonnage of less than one million tons of commercial cargo, the share of O&M cost to be paid by sponsors would be 70 percent. All other projects, and this will apply to most of the larger ports, would pay all of the O&M costs up to a ceiling limited by 125 percent of the national average based on the average O&M cost for all ports divided by the average tonnage at such ports. As in construction, traditional local sponsor requirements such as disposal areas for dredged material are to remain a non-Federal responsibility but will be credited to their O&M share.

Our cost sharing proposal for operation and maintenance recognizes the greater difficulty in recovering costs from shallow draft and other projects with little or no commercial tonnage by retaining a 30 percent Federal share. Large diversions of traffic from high-cost harbors are minimized by limiting the non-Federal share to 125 percent of the national average dredging cost. We will also compute individual port costs and the national average on at least a five-year average to smooth out the peaks and valleys in determining whether the ceiling applies in specific cases.

Based on preliminary data, the cost ceiling for operation and maintenance where annual tonnage is greater than 1,000,000 tons per year, would limit individual port costs to about 30 cents per ton of cargo loaded or unloaded whereas the actual cost of maintaining some of these projects approaches two dollars per ton of cargo. The 30 cents per ton maximum ranges from less than one percent to about 10 percent of other port charges, depending on the type of cargo and location. In any case, if the local sponsor's cost is all passed on to users, the incremental cost for operation and maintenance would increase their total port costs only a small amount and would be an even smaller fraction of the value of goods shipped.

Payment for both construction and O&M would be required on a "pay-as-you-go" basis; that is, to be paid generally as the work is accomplished. The project sponsor would be responsible for satisfying its obligations for project costs and would be authorized to impose and collect fees sufficient to cover its obligations as well as necessary administrative costs. User charges by project sponsors would be in accordance with fee schedules which would be subject to approval by my office. The form of the user charge used by port authorities to recover their costs from users should be left to their discretion as long as it is consistent with constitutional requirements and international obligations.

Inland Navigation

The channels, locks and dams on the inland waterway system are addressed in the Administration's proposed "Inland Waterway Development Act of 1985," S. 967. Commercial shippers using inland waterways would pay a uniform fee of 1.5 mills per ton-mile. The amount collected through the fee would approximate 70 percent of the annual operation and maintenance cost of the Corps and the Tennessee Valley Authority for inland waterways and 70 percent of the cost of new improvements to the inland waterway system. The existing fuel tax would continue to be collected and would be available to fund future waterway construction. Funds collected through the user fees would be available to the Secretary of the Army and the Tennessee Valley Authority for operation, maintenance, and new construction within their respective areas of responsibility.

Other Project Purposes

Construction of project features for flood damage reduction, hurricane and storm damage reduction and agricultural water supply would be at 35 percent non-Federal costs. Recreation would remain at 50 percent, but would be applied to assigned joint costs as well as separable costs. Fish and wildlife enhancement would be 100 percent non-Federal cost. All operation, maintenance and rehabilitation costs for non-navigation projects will be a non-Federal responsibility.

OTHER MAJOR PROVISIONS OF THE PROPOSED LEGISLATION

Fast-Tracking

One of the cornerstones of both bills is the provision of a reasonable means to expedite development and implementation of navigation projects. For Federal development of navigation projects: (1) amounts recovered from inland waterway user fees or provided by port and harbor sponsors would be appropriated without fiscal year limitation for use on new construction projects; (2) the Army would have generic authority to study, design, and construct new projects, as long as cost sharing is achieved and applicable laws and regulations are followed; (3) prior to initiation of construction a final environmental impact statement and other statements of compliance with environmental laws would be submitted to the Congress with the opportunity for disapproval by Joint Resolution within 180 days; and (4) any necessary judicial proceedings would be simplified and expedited. Measures would also be authorized to encourage non-Federal development of Federal port and harbor projects by streamlining the permitting process. These initiatives would allow the orderly implementation of justified navigation projects without jeopardizing environmental values.

Feasibility Study Cost Sharing

Water resources feasibility studies would utilize a two-phase planning process and would insure that full preauthorization studies are undertaken only when there is a high likelihood that a recommendation for a Federal project will result. A reconnaissance investigation, funded at full Federal expense, would define the problems, formulate and evaluate potential solutions, identify likely project sponsors, identify the Federal interest, and lay out the plan of study for the feasibility effort. If there is evidence of a Federal interest in a justified and implementable solution to the problem, the study would be continued with 50 percent non-Federal funding, half of which may be in the form of in-kind contributions.

Project Authorization

The "Water Resources Development Act" proposes authorization of 17 port and harbor projects, 37 flood damage reduction projects and 3 fish and wildlife mitigation projects at a presently estimated Federal and non-Federal cost of about $3.3 billion. The "Inland Waterway Development Act" proposes authorization of 5 projects at an estimated cost of $544 million.

Hydropower

There are 243 Corps of Engineers dams without power plants at which additional power could be developed. Most hydropower projects can be planned, constructed, and operated by non-Federal interests under the FERC procedures. However, the Corps should be involved in planning, design, and construction of hydroelectric facilities at its dams whether the power is developed by the Corps or non-Federal interests. Such involvement assures that hydropower development is compatible with authorized purposes of the Federal project and that the structural integrity of the project is maintained. We have two legislative proposals to address development of hydropower facilities at Corps projects.

In those few cases where non-Federal development of hydropower potential at an existing Corps project may be impractical because of physical, legal, competing use, institutional, environmental or economic reasons, one proposal would authorize Federal development of hydropower with non-Federal interests financing the cost and receiving the power for a certain period of time. In the majority of cases where non-Federal development of hydropower at a Corps project is practical, our other proposal would authorize the Corps, on request of the non-Federal interest, to construct the facility with non-Federal funds. One of the most significant advantages this allows in certain cases is the joint construction of the non-Federal hydropower facility and the Corps project resulting in a more efficient and cost effective, overall project.

OTHER PROVISIONS

Some of our other proposals would: (1) authorize advance engineering and design prior to construction authorization so as to eliminate the existing gap between the time a project is planned and the initiation of the engineering and design; (2) simplify the requirements for local cooperation agreements with states; (3) increase cost ceilings for small flood control and other types of projects which are undertaken by the Corps of Engineers without specific Congressional authorization;

(4) improve procedures for deauthorizing studies and projects which have never gone anywhere and for disposing of operating projects that are no longer justified for Federal operation; and (5) would allow the Corps to provide planning, design, and construction services to non-Federal public entities on a reimbursable basis.

CONCLUSION

In closing let me say that we are at a very special time in the history of the Federal water program. We are at a time when clearly the old formulas, the old ways of doing business have failed. There has not been a significant authorization Bill for the Corps of Engineers since 1970 and the number of new constructions starts has declined steadily over the past two decades. New approaches are needed to make maximum use of the ability of non-Federal sponsors to capitalize on the very real benefits water projects produce and to do this in ways that will allow them to share the cost of Federal water development.

It should be clear to any observer of the Federal water scene that the level of Federal funding that has been available in the past is simply not going to be available in the future. We hope that we can work together on this comprehensive legislation to work out new formulas, new charters, new authorizations, and new authorities that are necessary to revitalize the Nation's water resources program.

[Responses to Senator Abdnor's request
for additional information.]

DAEN CWP-A CWP-. DATE: 10 MAY 1985

STATUS OF REPORTS RECOMMENDING FEDERAL ACTION

SORTED BY DATE OF LATEST MILESTONE

STATUS/ TITLE OF REPORT	DATE OF DIVISION NOTICE	DATE OF BERH/MRC REPORT	DATE OF COE REPORT	DATE TO OMB	DATE TO CONGRESS	HOUSE/ SENATE DOC. NO	REMARKS	IN ADMIN. BILLS?
A. ASA TRANSMITTED REPORT TO CONGRESS								
1.Jekyll Island, GA	20May74	1Oct74	3Mar76	16Mar76	15Jun76	HD94-533	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	NO
2.Atlantic Intracoastal Waterway Bridges, NC	NA	6Mar75	1Oct75	14Apr76	25Aug76	HD94-597	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recom Modified Cost Sharing.	YES
3.Trimble Wildlife Area Replacement, Smithville Reservoir, MO	24Nov76	NA	22Sep77	4Nov77	19Sep78	HD95-389	ASA(CW) Advises Congress That OMB Concludes Project Meets Selection Criteria, Subject To Cost Allocation/Cost Sharing	YES
4.Blair & Sitcum Waterways, Tacoma Harbor, WA	31Oct75	11Mar76	9Feb77	11Mar77	1Nov78	HD96-26	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending ASuthorization.	YES
5.Saw Mill Run, Pittsburgh, PA	4Oct74	9Dec74	30Jan78	1Jun78	8Nov78	HD96-25	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
6.Root River Basin, MN	25Jul75	9Dec75	13May77	15Jul77	20Nov78	HD96-17	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
7.Agana River, GU	22Sep75	9Dec75	14Mar77	19Apr77	20Nov78	HD96-16	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
8.Chehalis River-S. Aberdeen & Cosmopolis, WA	4Sep75	15Jun76	8Feb77	23Mar77	20Nov78	HD96-27	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
9.Kodiak Harbor, AK	8Oct75	9Dec75	7Sep76	16Nov76	24Nov78	SD96-6	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
10.Little Wood River, Gooding & Shoshone, ID	5Jan77	1Mar77	2Nov77	30Nov77	27Nov78	SD96-9	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
11.Van Winkles Brook, Rahway River, Springfield, NJ	6Nov74	12Feb75	24Oct75	9Feb77	27Nov78	HD96-20	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
12.Coney Island Area, Norton Point, NY	11Jan74	7Oct75	18Aug76	7Sep76	27Nov78	HD96-23	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	NO
13.Gulfport Harbor, MS (PHI only)	14Feb77	3May77	16Jan78	27Feb78	28Nov78	HD96-18 SD96-8	Favorable For. Phase I AE&D Only	YES
14.Libby Reregulation Pwr Units, MT(PHI)	30Apr75	10Dec75	18Jul77	5Oct77	12Dec78	HD96-19	Cost Sharing Proposals And Legal,Environmental & Engineering Situations Have Changed Since This Report Was Sent To Cong.	NO
15.Robinson's Branch, Rahway River Basin, Rahway, NJ	6Nov74	9Dec74	10Oct75	9Feb77	12Dec78	HD96-21	Cost Sharing Prop Have Been Rev Since This Report Was Sent To Cong Recom Modified Cost Sharing And Deleting Pumpkin P.	YES
16.Panama City Beaches, FL	30Jun76	19Oct76	8Jul77	29Sep77	7Feb79	HD96-65 SD96-18	Cost Sharing Proposals And Policy Have Been Revised. Admin Now Opposes Projects With Primary Recreation Benefits.	NO

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A. ASA TRANSMITTED REPORT TO CONGRESS (Cont)								
17.Zumbro River, Rochester, MN (PHI)	3Feb78	5Apr78	23Feb79	8Mar79	27Apr79	HD96-115	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
18.Mansfield, Muskingum River Basin, OH	30Apr76	7Dec76	3Feb78	4Dec78	27Apr79	HD96-117	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
19.Cazenovia Creek, Buffalo Metro Area, NY	1May75	11Mar76	8Sep77	11Dec78	1May79	HD96-126 SD96-37	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
20.Des Moines River Basin, IA & MN	3Jul75	12Jan76	22Jul77	11Dec78	31May79	HD96-146 SD96-36	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
21.Upper White Oak Bayou, TX	21Jan77	4May77	13Jun78	15Dec78	3Aug79	HD96-182	Cost Sharing Proposals Have Been Revised Since This Report Was Sent To Congress Recommending Authorization.	YES
22.Davenport, IA (SPAC)	NA	NA	9Jul79	4Feb82	19Jul82	HD97-218	ASA(CW) Supported Authorization Provided Costs Of Mitigation Are Shared In The Same Proportion As The Project W/O Mit.	YES
23.Richard B. Russell Dam & Lake Mitigation, GA & SC	26May81	19Oct81	11May82	24May82	15Sep82	HD97-244	ASA(CW) Recommended No Acquisition Of Separable Lands For F&WL Mitigation; Report For Info And Appropriate Action.	NO
24.Tampa Harbor, East Bay Channel, FL	30Dec77	6Apr78	25Jan79	4Feb82	30Mar83		ASA(CW) Did Not Concur In Auth. OMB Not In Favor In Absence Of User Fee Legislation; Report For Info Only.	NO
25.Fourche Bayou, AR	14Jan80	19Jan81	4Sep81	13Oct82	31May83		ASA(CW) Recom Auth Less EQ Area. Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
26.Savannah Harbor Widening, GA	4Nov76	29Jun77	19Dec78	4Feb82	30Jun83	HD98-82	ASA(CW) Did Not Concur In Auth Or Recom Plan; OMB Not In Favor In Abs Of User Fee Leg; Report For Info Only.	YES
27.Hudson River Water Supply (NEWS) Study (PHI Only)	11Nov77	26Jan78	28Mar79	14Apr83	23Aug83	HD98-107	COE Recommended Phase I AE&D Only. ASA(CW) Recommended No Authorization, Since Proposal Was Single Purpose Water Sup.	NO
28.Mamaroneck, Sheldrake & Byram River Basins, NY & CT	30Mar78	12Jul78	4Apr79	26Apr83	2Sep83	HD98-112	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
29.Yakima River at Yakima & Union Gap, WA	30Nov77	7Nov78	7May80	11Apr83	19Sep83		ASA(CW) Recom Auth Less I-82 Riprap, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Trad, Whichever Is Greater.	YES
30.Rock River at Rockford, IL	9Apr79	2Jan80	15Sep80	22Apr83	4Oct83	HD98-121	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
31.Deep Water Ship Channel, Sacramento River, CA	24Oct80	12Mar81	20Nov81	3Jun83	4Oct83		ASA(CW) Finds Project Acceptable Except For Cost Sharing; No Recom For Auth Until Sharing Settled; Report For Info.	YES
32.Brazos Island Harbor, TX	15Feb78	3Nov78	20Dec79	4Feb82	4Oct83		ASA(CW) Found Accept Except For Cost Sharing & Recr;No Recom For Auth Until User Fee Leg Enacted; Report For Info Only.	YES
33.Charleston Harbor, SC (PHI)	25Jun80	21Jan81	27Aug81	27May83	4Oct83		ASA(CW) Found Acceptable Except For Cost Sharing; No Recom For Auth Until User Fee Leg Enacted; Report For Info Only.	YES
34.Susquehanna River at Harrisburgh, PA	7Dec77	21Jun78	16May79	8Apr83	5Oct83	HD98-123	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
35.New Haven Harbor, CT	20May81	15Oct81	26Jul82	27May83	5Oct83		ASA(CW) Found Project Acceptable Except For Cost Sharing; No Recom For Auth Until Cost Recovery Legislation Enacted.	YES

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A. ASA TRANSMITTED REPORT TO CONGRESS (Cont)								
36.Gowanus Creek Channel, NY	27Nov81	5Apr82	14Sep82	27May83	7Oct83		ASA(CW) Found Acceptable Except For Cost Sharing; No Recom For Auth Until User Fee Leg Enacted; Report For Info Only.	YES
37.San Juan Harbor, PR (PHI)	24Aug81	20Apr82	23Dec82	2Jun83	7Oct83		ASA(CW) Found Acceptable Except For Cost Sharing; No Recom For Auth Until User Fee Leg Enacted; Report For Info Only.	YES
38.Cache Creek Basin, CA	26Oct79	4Jun80	27Apr81	6Jun83	8Nov83	HD98-134	ASA(CW) Recom Auth Of Plan Without Refuge,Subject To Non-Fed Cost Sharing Equal To 35 %, Or Trad, Whichever Is Greater.	YES
39.Redbank and Fancher Creeks, CA	7Mar80	24Jul80	7May81	26Aug83	17Nov83	HD98-147	ASA(CW) Recom NED Plan And Less Recreation, Subj To Non-Fed Cost Sharing Equal To 35 %, Or Trad, Whichever Is Greater.	YES
40.Puerco River & Tribs, Gallup, NM	30Nov79	29Jan81	4Sep81	3Jun83	5Dec83	HD98-148	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
41.Oates Creek, Savannah River, GA	31Dec80	29Jun81	23Dec81	27May83	14Dec83	HD98-149	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
42.Indian River County, FL	31Oct80	12Mar81	21Dec81	2Jun83	20Dec83	HD98-154	ASA(CW) Recommends Auth, Subject To Revised Cost Sharing And Selection Of The NED Plan For The Vero Beach Segment.	YES
43.James River, Richmond, VA(PHI)	2Feb81	11Jun81	16Nov81	8Jul83 22Dec83	21Feb84	HD98-178	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
44.Perry Creek, IA	12Jan81	29Jun81	4Feb82	19Sep83 22Dec83	28Feb84	HD98-179	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
45.Raritan River Basin, Green Brook Sub-basin, NJ	6Oct80	16Mar81	4Sep81	14Nov83 22Dec83	29Feb84		ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
46.Lock Haven, PA (PHI)	21Sep80	14Apr81	14Dec81	14Nov83	6Mar84	HD98-187	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
47.Logan, Hocking River, OH	13Jan77	3May77	23Jun78	22Aug83 22Dec83	7Mar84	HD98-184	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
47.Nelsonville, Hocking River, OH	13Jan77	3May77	23Jun78	22Aug83 22Dec83	7Mar84	HD98-184	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
48.Wilmington Harbor, NE Cape Fear River, NC	8May78	2Jan80	16Sep80	18May83 22Dec83	7Mar84	HD98-185	ASA(CW) Found Project Gen. Acceptable Except For Cost Sharing And Acquisition Of EQ Area; Report For Info Only.	YES
49.Fountain Creek, Pueblo, CO (PHI)	27Jun80	15Apr81	23Dec81	3Jun83	7Mar84	HD98-183	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal TO 35 %, Or Traditional, Whichever Is Greater.	YES
50.Miami River Basin, Holes Creek, OH	23Oct80	13Apr81	23Dec81	20Sep83 22Dec83	16Mar84	HD98-196	ASA(CW) Recom NED Plan Auth, Subject to Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
51.Horn Lake Creek, TN & MS (PHI)	31Aug81	28Jan82	4Jan83	20Sep83 22Dec83	19Mar84	HD98-195	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
52.Murray Lock & Dam Hydro, AR	15Dec80	9Jun81	23Dec81	28Jun83 20Dec83	29Mar84		ASA(CW) Advised Congress That Non-Federal Power Construction Is Practical; Therefore, Report Furnished For Info Only.	NO
53.W.D. Mayo Lock & Dam 14 Hydro, OK	19Dec80	9Jun81	23Dec81	20Jun83 20Dec83	29Mar84		ASA(CW) Advised Congress That Non-Federal Power Construction Is Practical; Therefore, Report Furnished For Info Only.	NO

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A. ASA TRANSMITTED REPORT TO CONGRESS (Cont)								
54.Redwood River at Marshall, MN (Sec 216)	15Oct79	16Mar81	16Nov81	9Jun83	5Apr84	HD98-207	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
55.Eight Mile Cr, AR	10Apr77	24May77	10Aug79	17Jan84	5Apr84	HD98-210	ASA(CW) Recom Auth Less Agri Reach, Subject To Non-Fed Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
56.Mingo Creek, Tulsa, OK	6Nov80	16Apr81	16Nov81	11Jan84	20Apr84	HD98-212	ASA(CW) Recom NED Plan Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater	YES
57.Bonneville Navigation Lock, WA & OR	21Oct77	5Dec78	14Mar80 10Feb81s	19Apr83	23Apr84		ASA(CW) Advised Congress That Authorization Would Be Premature In The Absence Of Generic User Fee Legislation.	YES
58.Lake Wichita, Holliday Creek, TX	23Dec76	19May78	9Jul79	31Mar83	25Apr84	HD98-219	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
59.White River Navigation to Batesville, AR	28Sep79	24Jul80	23Dec81	9Feb84	27Apr84		ASA(CW) Found Project Accept Except For Recr & Cost Sharing; No Recom For Auth Until Sharing Enacted:Report For Info.	YES
60.Grand Haven Harbor, MI	5Dec77	30Jun78	9Oct79	11Feb82	24May84	HD98-227	ASA(CW) Found Project Acceptable Except For Cost Sharing; No Recom For Auth Until Sharing Leg Enacted; Report For Info.	YES
61.Jacksonville Harbor, Mill Cove, FL	6Oct80	29Jun81	12Feb82	16Jun83	1Jun84	HD98-233	ASA(CW) Recom Auth Of Flow And Circulation Features But Not The Small Boat Navigation Channel Feature.	YES
62.Crown Bay, St. Thomas, VI	20Oct80	10Jul81	9Apr82	19Jan84	18Jun84	HD98-241	ASA(CW) Advised Cong (Report For Info) That Admin Opposes Auth of Project, Primarily Providing Recreation Services.	NO
63.City Waterway, Tacoma Harbor, WA	NA	NA	5May83	30Apr84	3Jul84	HD98-244	ASA(CW) Concurs With Adjustment Of Commercial Nav Project Boundaries.	YES
64.Sacramento Rvr Fish & Wildlife Program, CA	[illegible]	29Jan81	1Sep81 2Jun83s	25Aug83	10Sep84	HD98-264	ASA(CW) Concurs With Acquisition Of 260 Acres Of Mitigation Lands, Subject To Non-Federal Cost Sharing.	YES
65.Metro Denver & S. Platte Rvr (Westerly Cr), CO, WY & NE	9Jul80	27Mar81	23Dec81 14Jul83s	16Dec83	10Sep84	HD98-265	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Or Traditional, Whichever Is Greater.	YES
66.Santa Ana River Main Stem, Incl Santiago Creek, CA (PHI)	10Feb81	29Jun81	15Jan82	16Dec83	4Jan85	HD99-20	ASA(CW) Recom All River Plan,Less Mentone,And Other Changes, Subject To Non-Federal Cost Sharing.	YES
67.Manatee Harbor, FL	16Feb79	21Aug79	12May80	4Feb82	25Jan85	HD99-22	ASA(CW) Did Not Concur In Auth Without Enactment Of Generic User Fee Legislation; Report For Info Only.	YES
68.Oakland Outer Harbor, CA	1Apr77	21Jun78	7Jan80 1Jul83s	4Feb82	1Feb85	HD99-27	ASA(CW) Recommends Authorization Contingent On Enactment Of Appropriate Navigation User Fee Legislation.	YES
69.Quincy Coastal Streams, Town Brook, MA	29Sep80	16Mar81	14Dec81 13Dec84s	13Jun83 14Jan85s	27Feb85	HD99-39	ASA(CW) Recom Auth, Subject To Non-Federal Cost Sharing Equal To 35 %, Consistent With Admin Legislative Proposal	YES
70.Kentucky River, Disposition of L&Ds 5-14, KY	None	None	2Jul84	1Aug84	19Mar85	HD99-49	ASA(CW) Concurs In Disposal Auth By Amending PL84-996 To Add Ky R L&Ds 5-14.	YES
71.Gallipolis Locks & Dam Repl, OH & WV (PHI)	4May81	15Oct81	8Apr82 13Aug83s	23Jan85	4Apr85		ASA(CW) Recom Auth Contingent Upon Enactment Of Generic Cost Sharing Legislatiun.	YES
72.Monroe Harbor, MI	21Mar80	22Jan81	25Nov81	9Jun83	14May85		ASA(CW) Recom Auth Contingent Upon Enactment Of Generic Cost Sharing Legislation.	YES

A. ASA TRANSMITTED REPORT TO CONGRESS (Cont)

B. ASA INFORMED CONGRESS - REPORT NOT TRANSMITTED

STATUS/ TITLE OF REPORT	DATE OF DIVISION NOTICE	DATE OF BERH/MRC REPORT	DATE OF COE REPORT	DATE TO OMB	DATE TO CONGRESS	HOUSE/ SENATE DOC. NO	REMARKS	IN ADMIN. BILLS?
1.Louisiana State Penitentiary, Mississippi River, LA	28Jan82	19Apr82	10Dec82	6Jun83	3Aug83		ASA(CW) Advised Cong (Report Not Sent) That Fed Financial Participation In State Levee Improvements Not Appropriate.	NO
2.Olcott Harbor, NY	24Jan79	21Aug79	11Jun80	11Apr83	22Feb84		ASA(CW) Advised Cong (Report Not Sent) That Primarily Recreation Project Inconsistent With Admin Budget Priorities.	NO
3.Green Bay Levee & Drain Dist No. 2, Mississippi River, IA	2Nov79	23Sep80	21Oct81	13Jun83	22Feb84		ASA(CW) Advised Congress (Report Not Sent) Of OMB View That Fed Participation In Mod Of Existing Levees Not Appropriate	NO
4.Charlotte Co. FL	22Dec80	29Jun81	2Apr82	22Jun83	22Feb84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project, Primarily Providing Recreation Services.	NO
5.Lava Flow Control, HI	30May80	15Dec80	21Jul81	13Dec83	24Feb84		ASA(CW) Advised Cong (Report Not Sent) That Providing The Corps With Additional Disaster Assist Auth Not Necessary.	NO
6.Lake Pontchartrain, No. Shore, LA	28Mar77	17Jan78	14Feb79	2Dec83	28Feb84		ASA(CW) Advised Cong (Report Not Sent) That Project With Primarily Recreation Services Not Consistent With Priorities	NO
7.Village Creek, AL	21Sep81	5Apr82	23Dec82	6Jun83	2Mar84		ASA(CW) Advised Cong (Report Not Sent) That Admin Concludes This Project Is Not Appropriate Federal Activity.	NO
8.Southcentral Railbelt, Valdez, AK	31Aug81	1Apr82	29Oct82	14Jun83 20Dec83	6Apr84		ASA(CW) Advised Cong (Report Not Sent) That Construction Of Single-Purpose Power Facility Should Be Non-Fed Perogative.	NO
9.Folly Beach, SC	31Dec79	30Apr80	17Mar81	3Jan84	6Apr94		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project, Primarily Providing Recreation Services.	NO
10.Atlantic Coast of MD & Assateague Island, VA	16Oct80	31Mar81	29Sep81	27May83	13Apr84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project, Primarily Providing Recreation Services.	NO
11.St. Johns County, FL	24Apr78	2Apr79	26Feb80	8Apr83	15May84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project, Primarily Providing Recreation Services.	NO
12.Greenville Harbor, MS (PHI)	None	3Mar76	15Nov77 22Feb82s	9Jun78 2May84s	6Jul84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project To Enlarge Supply Of Industrial Land.	NO
13.Vicksburg Harbor, MS	20Aug76	13Sep76	13Aug79	3May84	6Jul84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project To Enlarge Supply Of Industrial Land.	NO
14.Phillips Co, Helena Hbr. AR	16Jan78	7Mar78	17Oct80	3May84	6Jul84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project To Enlarge Supply Of Industrial Land.	NO
15.Memphis Harbor, TN	30Mar77	24May77	25Feb81	2May84	6Jul84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project To Enlarge Supply Of Industrial Land.	NO
16.Scammon Bay Small Hydro, AK	8Jun82	12Oct82	9Aug83	3May84	6Jul84		ASA(CW) Advised Cong (Report Not Sent) That Construction Of Single-Purpose Power Facility Should Be Non-Fed Perogative.	NO
17.Cabin Creek, Kanawha Co. WV (Demo Reclamation Proj)	19Aug77	17Jan78	1Mar79	27Jul83	31Jul84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of This Demo Project Until Mine Reclamation Complete.	NO
18.Dade County, N. of Haulover Beach, FL	11Aug82	19Jan83	27Dec83	24Apr84	20Aug84		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth Of Project, Primarily Providing Recreation Services.	NO

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B. ASA INFORMED CONGRESS - REPORT NOT TRANSMITTED (Cont)								
19.Indiana Shoreline, IN	10Sep82	28Jan83	18Nov83	24Apr84	30Aug84		ASA(CW) Advised Cong (Report Not Sent) That Corps Project To Provide Primarily Recreation Opportunities Not Approp.	NO
20.Metro Atlanta W.R.M.S., Lake Lanier Reregulation Dam, GA	30Mar81	28Oct81	1Jun82 7Sep83s	22Oct82 30Nov83s	8Jan85		ASA(CW) Advised Cong (Report Not Sent) That Admin Opposes Auth; Project More Appropriate For Non-Federal Construction	NO
21.Maumee Bay State Park, OH	30Aug83	26Jan84	9Jul84	20Aug84	7Mar85		ASA(CW) Advised Cong (Report Not Sent) That This Primarily Recreation Project Inconsistent With Admin Budget Priorities	NO
22.L&D 9, Ark R&T, AR & OK	30Aug82	19Jan83	1Sep83	27Apr84	1May85		ASA(CW) Advised Cong (Report Not Sent) That Auth Not Appropriate, Since Non-Fed Hydro Development Is Practical.	NO
22.L&D 13, Ark R&T, AR & OK	30Aug82	19Jan83	1Sep83	27Apr84	1May85		ASA(CW) Advised Cong (Report Not Sent) That Auth Not Appropriate, Since Non-Fed Hydro Development Is Practical.	NO
22.Toad Suck Ferry, Ark R&T, AR & OK	30Aug82	19Jan83	1Sep83	27Apr84	1May85		ASA(CW) Advised Cong (Report Not Sent) That Auth Not Appropriate, Since Non-Fed Hydro Development Is Practical.	NO
C. CLEARED BY OMB								
1.Norfolk Harbor & Channels, VA	29Aug80	21Jan81	20Nov81	25May82				YES
D. WITH OMB								
1.Great Lks/St Lawrence Nav Seas Ext MN, WI, MI, OH, PA, NY			3Mar82	9Mar84				NO
2.Bushley Bayou, Red River, LA (PHI)	18Aug78	17Aug78	30Apr80 12Aug82s	7Jun84				NO
3.Monroe County, FL	28Apr82	18Jul83	27Apr84	20Aug84				NO
4.Kill Van Kull, Newark Bay Channels, NY & NJ	3Oct80	10Jun81	14Dec81	10Jan85				NO
5.Gulf to Baton Rouge, Mississippi River Ship Channel, LA	30Oct81	1Apr82	9Apr83	25Apr85				NO
6.Mobile Harbor Deepening, AL	6Nov80	18Mar81	18Nov81	25Apr85				NO
7.Parker Lake, Muddy Boggy Creek, OK	14May76	2Nov76	30May80	25Apr85				NO
8.Scioto River, N. Chillicothe, OH	29Sep80	27Mar81	4Sep81 1Feb85s	25Apr85				NO
9.Mt. St. Helens Sedimentation Control, WA	2Nov84	9Jan85	3Apr85 7May85	10May85				NO
E. WITH ASA								
1.Halstead, KS	23Dec76	29Jun77	8May79					NO

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E. WITH ASA (Cont)								
2.Colorado River & Tribs. Boggy Creek, TX	10Dec79	30Apr80	19Jan81					NO
3.McNary Lock & Dam, 2nd Powerhouse, OR & WA (PHI)	30Nov79	6May80	24Jun81					NO
4.Cape May Inlet to Lower Township, NJ (PHI)	8Oct80	29Jun81	23Dec81					NO
5.Cooper Lake and Channels Mitigation, TX	22Apr81	19Oct81	21May82					NO
6.Richmond Harbor, CA	4Dec81	5Apr82	8Aug82					NO
7.Maline Creek, MO	13Mar81	5Apr82	2Nov82					NO
8.Nonconnah Creek, TN & MS (PHI)	28Sep81	28Jan82	23Dec82					NO
9.Brush Creek & Tribs, MO & KS	20Nov81	1Apr82	3Jan83					NO
10.St. Johns Bayou & New Madrid Floodway, MO (PHI)	29Sep80	29Jan82	4Jan83					NO
11.Atchafalaya Basin Floodway System, LA	15Jan82	20Apr82	28Feb83					NO
12.Big River Reservoir, RI	3Aug81	5Apr82	9Mar83					NO
13.St. Paul, Mississippi River, MN (Sec 216)	30Apr82	22Sep82	16Jun83					NO
14.Helena & Vicinity, AR	15Oct82	16Dec82	22Jun83					NO
15.Fairfield, OH	26Apr82	25Oct82	22Jun83					NO
16.Bethel Bank Stabilization AK	30Jun82	26Jan83	30Jul83					NO
17.Blue River Lake, OR	30Jun82	22Sep82	9Aug83					NO
18.Saint Paul Island Harbor, AK	30Jun82	24Jan83	10Aug83					NO
19.Alenaio Stream, HI	15Jul82	18Jan83	15Aug83					NO
20.Fry Creeks, Tulsa, OK	30Sep82	18Jan83	7Sep83					NO
21.Wyoming Valley, PA (PHI)	18Feb82	1Nov82	19Oct83					NO
22.Hampton Roads Drift Removal, VA	13Aug82	19Jan83	19Oct83					NO
23.Upper Little Arkansas River Watershed, KS	31Aug82	19Jan83	15Dec83					NO
24.Wrightsville Beach, NC	30Dec82	23Mar83	19Dec83					NO
25.South Quincy Drainage & Levee District, IL	5Nov82	25Mar83	24Jan84					NO
26.Willoughby Spit & vic, VA	1Apr83	8Aug83	17Apr84					NO
27.Sims Bayou, TX	21Mar83	18Jul83	17Apr84					NO
28.Park River, Grafton, ND	28Feb83	18Jul83	17Apr84					NO
29.Threemile Creek, AL	7Feb83	18Jul83	20Apr84					NO

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E. WITH ASA (Cont)								
30.Missouri River Bank Stab & Nav Mitigation, IA, NE, MO, KS	15Jun81	30Sep82	24Apr84					NO
31.St. Louis Harbor, MO & IL	29Nov82	6Apr83	30Apr84					NO
32.Centralia-Chehalis, WA	11Apr83	18Oct83	20Jun84					NO
33.Tonawanda Creek, Buffalo Metro Area, NY	30Jul82	19Oct83	2Jul84					NO
34.Little Calumet River, IN (PHI)	12Oct82	14Nov83	2Jul84					NO
35.Yazoo River Mitigation, MS	16Aug82	16Dec82	12Jul84					NO
36.Duluth-Superior Harbor, MN & WI	5Nov82	4Apr83	16Aug84					NO
37.Ft. Gibson Lake, Powerhouse Extension, OK	11Mar83	18Jul83	16Aug84					NO
38.Shevenne River, ND	25Apr83	23Jan84	22Aug84					NO
39.West Memphis & vic, AR (MRC)	30Dec82	25Apr83	7Sep84					NO
40.Grays Landing, L&D 7, Monongahela River, PA	6Jan84	21Mar84	24Sep84					NO
40.Point Marion, L&D 8, Monongahela River, PA	6Jan84	21Mar84	24Sep84					NO
41.Casino Beach, Illinois Shoreline, IL	27Apr83	1Dec83	26Sep84					NO
42.William Oliver Bacon Lock, AL	17Aug83	1Dec83	26Sep84					NO
43.North Branch Chicago River, IL	7Sep83	3Jan84	29Oct84					NO
44.Ramapo and Mahwah Rivers, NJ & NY	30Dec83	21Mar84	27Nov84					NO
45.Hilo Harbor, HI	26Feb82	18Jul83	4Dec84					NO
46.Cape Girardeau, MO	17Feb84	21Mar84	8Dec84					NO
47.Red River Waterway, F&W Mitigation, LA	8Nov83	21Mar84	28Dec84					NO
48.Sugar Creek Basin, NC & SC	19Mar84	13Jun84	1Feb85					NO
49.Lorain Harbor, OH	27Jan84	13Jun84	5Feb85					NO
50.Portsmouth Harbor & Piscataqua River, NH & ME	4Apr83	21Mar84	25Feb85					NO
51.Sowashee Creek, Meridian, MS (PHI)	30Mar84	13Jun84	25Feb85					NO
52.Lower Snake River F&WL Compensation, WA & ID	5Jul83	NA	6Mar85					NO
53.Dresden Lock & Dam Hydro, IL	23Jul82	18Jan83	23Mar85				COE Advised ASA(CW) That Auth Not Appropriate, Since Non-Federal Hydro Development Is Practical.	NO

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E. WITH ASA (Cont)								
54.Wando River,Charleston Harbor, SC	20Mar84	13Jun84	1May85					NO
55.Grays Harbor, WA	15Sep82	17Jan83	4May85					NO
56.Roughans Point, Revere, MA	3Jan83	24Jan84	4May85					NO

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F. PREPARING FINAL REPORT SUPPLEMENTS

STATUS/ TITLE OF REPORT	DATE OF DIVISION NOTICE	DATE OF BERH/MRC REPORT	DATE OF COE REPORT	DATE TO OMB	DATE TO CONGRESS	HOUSE/ SENATE DOC. NO	REMARKS	IN ADMIN. BILLS?
1.Lucky Peak, ID	10Apr78	21Jun78	17Mar80	4Feb82			Hydropower At This Existing Corps Project Being Developed By Non-Federal Interests Under FERC License.	NO
2.Middle Rio Grande Flood Prot, Bernalillo to Belen, NM	17Sep79	2Jun80	23Jun81				Reevaluation Of Alternative Plans Underway	NO
3.Little Colorado River at Holbrook, AZ	31Dec80	29Jun81	23Dec81				Reevaluation Of Alternative Plans Underway.	NO

QUESTION: Would you also provide for the record a table of all the projects which have cleared the Chief indicating the amount of non-Federal contributions required under your proposal and S. 366, breaking out lands, easements, and rights-of-way in each case?

RESPONSE: A table providing the requested information is attached.

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Favorable Reports of the Chief of Engineers, as of 10May85	Total Cost (1)	Non-Fed Cost Share (3)		Lands, Ease., Rights-of-way
		S366 Cost Sharing	Admin. Cost Sharing	
Oakland Outer Hbr	42400	14270	30350	3100
Sacramento Deepwater Channel	125300	46450	87710	11200
Richmond Hbr	43800	19040	33210	0
Santa Ana River Main Stem (2)	781000	203670	278000	64300
Redbank & Fancher	84100	23410	30290	16640
Puerco River	4160	1040	1457	138
Little Colorado Riv@Holbrook	11700	2955	4113	1540
Cache Creek	30700	10435	12415	8900
Sacramento Bank Protection	1415	523	523	523
Davenport	497	142	177	0
Des Moines	15340	3990	5460	3240
Green Bay Levee & DD	6770	1690	2370	880
Casino Beach	5370	2685	2685	0
North Branch Chicago River	14390	3600	5040	2526
Rock River	27720	6930	9700	5220
South Quincy	11688	2918	4088	288
Indiana Shoreline L. Mich	7920	0	5540	0
Little Calumet (2)	83460	23960	29200	19900
Grand Haven Hbr	17200	5300	12040	3800
Monroe Hbr	139400	89200	97580	66800
Duluth-Superior Hbr	12200	6090	8540	3467
Redwood River @ Marshall	4283	1245	1604	453
Root River	8195	2050	2870	105
Miss. River @ St. Paul	8454	2114	2960	674
South Fork Zumbro	60470	15255	21247	8796
Park River	18790	4700	6580	2490
Sheyenne River	40400	16200	14200	14200
Cazenovia Creek	3025	756	1060	514
Olcott Hbr	12445	6215	6215	55
Tonawanda Creek	32000	8425	11200	6826
Lorain Hbr	5491	1724	3844	605
Presque Isle	28100	14050	14050	0
Maumee Bay	15800	9700	9700	0
Atchafalaya Basin Floodway Sys	245398	26423	210452	0
Bushley Bayou	44700	12598	16482	10427
Cape Girardeau	24600	6297	8715	4650
Eight Mile Creek	14950	3763	5248	9957
Greenville Hbr	42600	12300	29820	12221
Helena & Vicinity	13700	3425	4795	1800
Horn Lake Creek	3400	870	1202	1150
Lake Ponchartrain, North Shore	1264	632	632	379
Louisiana State Pen Levee	22646	5662	7926	1159
Maline Creek	61900	23961	23605	18571
Memphis Hbr	106105	65600	74274	65600
Miss Ri Ship Ch, Gulf to Bat R	456000	217650	367710	210300
Nonconnah Creek	25900	8754	9414	6979
Phillips County, Helena Hbr	56403	18700	39482	18653

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Red River WW, F&WL Mit	11165	670	670	670
St. Louis Hbr	30340	19070	21238	19064
St. John's Bayou & New Madrid	108900	45542	38124	40071
Vicksburg Hbr	77700	16963	54390	16300
West Memphis & Vic	20600	15047	7210	14017
White River	27000	6101	6101 (4)	5815
Yazoo River Mit	4993	0	0	0
Bethel Bank Stab	15110	4020	4028	650
Big Wood Riv & Tribs	4420	1105	1547	390
Blair & Sitcum WW	35816	11766	25115	561
Blue River Lake	30101	30101	30101	0
Bonneville	191020	0	0 (4)	12029
Centralia	19500	4875	6825	0
Chahalis	21940	5485	7679	1140
Grays Hbr	93187	27956	68036	24740
Libby Rereg Power Units	79000	79000	79000	0
McNary L & D	649000	648500	648815	525
St. Paul Island	24756	15617	20840	0
Scammon Bay	1600	1600	1600	0
Kodiak Hbr	14641	4392	10157	131
Yakima-Union Gap	8789	2197	3076	193
Southcentral Railbelt, Valdez	44000	44000	44000	0
Lucky Peak	106200	106200	106200	0
Lower Snake River F&WL	0	0	0	0
Mount St. Helens	214100	54925	84735	14900
Ark Riv & Tribs, L & D 13	113000	113000	113000	0
Ark Riv & Tribs, L & D 9	103000	103000	103000	0
Ark Riv & Tribs, Toad Suck Fy	59700	59700	59700	0
Brazos Island Hbr	31417	9425	21767	1477
Colorado Riv & Tribs, Boggy Cr	21300	7765	7733	6196
Cooper Lake & Channels Mit	14743	6631	9856	10181
Fountain Creek	8400	2215	3009	1070
Fourche Bayou	32375	11566	13769	8800
Fry Creeks, Tulsa	13000	3080	4550	3500
Ft. Gibson Lake, Powerhouse Ex	24100	24100	24100	0
Halstead	7100	1775	2485	700
Lake Wichita	27300	12525	12676	6600
Middle Rio Grande	43900	10975	15365	2300
Mingo Creek	133000	39850	46550	33200
Murray L & D	98600	98600	98600	0
Parker Lake	43000	39329	39818	16300
Sims Bayou	123979	32072	44038	15827
Upper Little Ark Riv Watershed	12200	3050	4270	2000
Buffalo Bayou	90670	23015	31943	10775
W. D. Mayo L & D	119300	119300	119300	0
Alenaio Stream	7860	2703	2751	2310
Agana River	9530	3756	3336	3280
Hilo Hbr	4390	1555	3073	0
Lava Flow Control	5470	1368	1915	440
Town Brook, Quincy	26500	6625	9300	230

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Roughans Point, Revere	8200	2500	2900	2500
Portsmouth Hbr & Piscataqua Ri	21700	6500	15200	0
Big River Reservoir	84700	78522	80300	44800
New Haven Hbr	25900	8540	18460	0
Atlantic Coast of MD	35200	11202	12320	0
Atlantic Coast of NYC	7910	3955	2769	0
Barnegat Inlet	36435	15125	25435	700
Cape May	17300	0	0	0
Gowanus Creek	3440	1553	2408	0
Greenbrook Subbasin	101832	31205	35641	21300
Hampton Roads	6870	4590.	4590	0
Harrisburg	132900	33225	46515	22870
James River Basin	101200	25300	35420	15300
Kill Van Kull	248100	96760	173670	10323
Lock Haven	79225	19806	27729	8500
Mamaroneck, Sheldrake, & Byram	63070	15767	22075	9760
Norfolk Hbr	538000	272960	521523	24950
Robinson's Branch, Rahway	25907	6477	9067	7750
Rahway & Van Winkles Br	17500	4975	6125	4100
Ramapo & Rahway	5700	1585	1995	1300
Willoughby Spit	4230	1647	1483	0
Wyoming Valley	234700	58675	82231	4430
Cabin Creek	43000	13640	15693	8600
Gallipolis	256000	0	0 (4)	2185
Hocking River @ Logan	7760	1988	2745	925
Hocking River @ Nelsonville	8020	2077	2850	591
KY River, L & D 5-14	0	0	0	0
Miami Riv, Fairfield	14360	4360	4300	3653
Miami, Lit. Miami, Holes Cr	8910	3105	3245	1730
Monongahela L&Ds 7,8	163100	0	0 (4)	15100
Muskingum R. @ Mansfield	4256	1265	1500	1056
Saw Mill Run	7853	1963	2749	323
Scioto R., North Chillicothe	10740	2714	3777	1217
Brush Creek	15770	3942	5520	2670
Metro Denver	10563	2641	3697	773
Missouri River Mitigation	50500	16918	11842	0
Perry Creek	44200	23968	15523	21600
Trimble Wildlife Area	7870	2750	4684	0
Threemile Creek	19070	10317	6675	9370
Wrightsville Beach	0	0	0	0
Monroe County	3142	1581	1565	20
Mobile Hbr (2)	468933	205726	426884	0
Village Creek	28100	7109	9835	5700
Charlotte County	2255	1184	1081	0
Dade County	15605	8115	7380	0
Indian River County	4934	2503	1957	72
Jacksonville Hbr	6575	0	0	0
Panama City Beaches	41731	22627	19168	3523
St. Johns County	9679	3233	3317	0
Tampa East Bay	0	0	0	0

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Jekyll Island	10450	5225	5154	4380
Metro Atlanta	26445	26445	26445	4136
Oates Creek	13472	5187	4715	4515
Richard B. Russell	20160	0	0	20160
Savannah Hbr	19175	6457	13724	6802
A I W W Bridges	8800	0	0	120
Folly Beach	3335	1695	1531	56
Wilmington Hbr, NE Cape Fear	9718	1643	8075	370
San Juan Hbr	86334	27549	60433	0
Gulfport Hbr	78968	23819	55278	0
Crown Bay	8124	4682	5687	1108
Charleston Hbr	84032	26454	58822	0
Manatee Hbr	16115	5807	11281	513
Sowashee Creek	17500	6983	6125	6100
Sugar Creek	29100	10055	10185	8600
Oliver L & D	147211	0	0 (4)	0
Charleston Hbr, Wando Riv Ext	3561	1212	2493	0

Notes: (1) Total cost in accord with Chief's report except as noted.

(2) Cost reflects ~~provision~~ in S366.

(3) For structural local flood protection projects under S. 366, non-Federal share reflects the value of lands, easements, rights-of-way, and relocations plus 5% of total flood control costs, or 25% of total flood control costs, whichever is greater.

(4) The proposed inland waterway user fee of 1.5 mills per ton-mile under the Administration's proposal would recover approximately 70% of the expected Federal operation, maintenance, and new construction costs during the next five years.

RESPONSES TO QUESTIONS RECEIVED PRIOR TO THE HEARING

QUESTION: Mr. Secretary, would you please state Army's views on Section 209 of S. 366.

RESPONSE: Section 209 of S. 366 would authorize a $25 million program of research and technical assistance (including the acquisition of equipment) for the control of river ice. In addition, Section 209 would authorize a $900,000 river ice control demonstration project at Hardwick, Vermont.

We recognize that flooding or streambank erosion due to ice-jams is a problem in the northern parts of the country, particularly the Northeast. The Corps, as part of its research and development program, is currently investigating not only ice-jam flooding problems but is also studying other river ice problems such as ice-jammed water supply intakes and navigation related ice problems.

Through the Flood Plain Management Services program, the Corps, upon request, provides a full range of technical services on floods and flood plain issues to Federal, State and local agencies. Technical assistance to communities on ice-jam flooding problems is an eligible activity under this program and the Corps has previously provided such assistance.

Lastly, the Corps is also addressing ice-jam flooding problems at specific communities, e.g., Port Jervis, New York, and Cazenovia Creek (near Buffalo), New York, through both the Small Flood

Control Project Authority (Section 205 of the 1948 Flood Control Act, as amended), as well as the Feasibility Study program.

In summary, we believe that we have both sufficient authority and adequate established programs to deal with the river ice problem, including the problem at Hardwick, Vermont. As a result, we do not support this section of the bill.

QUESTION: Mr. Secretary, would you please state Army's views on Section 210 of S. 366.

RESPONSE: Section 210 would authorize a $25 million program to: (1) undertake surveys, upon the request of local public officials, of former industrial sites, millraces, and similar facilities to evaluate their potential for rehabilitation as hydroelectric facilities, and (2) provide technical assistance to local public agencies in designing projects for rehabilitation.

In view of the current Federal deficit, we would oppose initiating additional programs at Federal expense. We view this as a potential role for the Corps in assisting non-Federal entities, but with non-Federal financing. This would be consistent with our proposal to authorize the Corps to do work for non-Federal public entities on a reimbursable basis.

QUESTION: Mr. Secretary, would you please state Army's views on Section 213 of S. 366.

RESPONSE: Section 213 would impose a cost ceiling on every project authorized in the bill which could not be exceeded except as may be justified by increases in construction or land costs.

Although conceptually we support the intent of Section 213, we believe that some additional flexibility which does not alter the scope or functions of the project but permits relatively common minor modifications to adjust to conditions (e.g., foundation, hydrologic) unforseen at the time of initial feasibility design, as well as permits modifications that may be required to be in conformance with subsequent Federal law should be incorporated into the provision.

QUESTION: Mr. Secretary, would you please state Army's views on Section 215 of S. 366.

RESPONSE: Section 215 would allow potential sponsors of water resource development projects to create, pursuant to State law, a Federal Project Repayment District with which the Secretary of the Army would be authorized to execute a repayment agreement.

We are not aware of any existing restriction that would preclude local interests from organizing and forming a quasi-government agency, pursuant to State law, to act as sponsors of a Federal project. Therefore, we do not see any particular need for this provision; but, if retained, it should be modified to permit payments during construction.

QUESTION: Mr. Secretary would you please state Army's views on Section 219 of S. 366.

RESPONSE: Section 219 would amend the Water Resources Research Act of 1984 (P.L. 98-242) to establish a $55 million R&D and grant program, administered by DOI, on the depletion of the Ogallala Aquifer.

Since this proposed program would be administered by the Department of the Interior, we defer to their views on the merits of this provision.

QUESTION: Mr. Secretary, would you please state the Army's views on Section 220 of S. 366.

RESPONSE: Section 220 would authorize a $250 million program to provide grants to states for promoting nonstructural flood control and water conservation.

The Corps, through the Flood Plain Management Services Program, has already prepared a number of detailed brochures and manuals on non-structural flood control methods which have been provided to State and local agencies for their use. Other Federal agencies such as the Federal Emergency Management Agency (FEMA) have also publicized nonstructural flood control measures. Therefore, we do not believe that providing Federal grants to States in this area is warranted.

In regard to promoting water conservation, we believe that is a State and local responsibility. States and local municipalities have the primary responsibility for providing an adequate supply of potable water for their respective communities. We believe it is in their own best interest to promote its effcient use. Providing Federal grants to States to promote water conservation would be an unwarranted expenditure of limited Federal resources.

QUESTION: Mr. Secretary, would you please state Army's views on Section 221 of S. 366.

RESPONSE: Section 221 would authorize a 3-year $3 million study of shoreline protection and beach erosion due to rising ocean levels. Although the study of shorelines and beach erosion control policy and means to effectively mitigate for the effects of erosion and coastal flooding is very important to our mission, we believe that effort to be premature.

The premise that sea level rise and its attendent coastal problems is a result of increased carbon dioxide in the atmosphere is subject to considerable controversy. A study is now underway by a panel of the Marine Board of the National Academy of Sciences to investigate the engineering impacts of a relative sea level rise. That study by world-renound experts is expected to be completed early in 1986, and will include an analysis of all the contributing factors and an estimate of probable relative rises or sinks. It appears that many factors (like plate techtonics, isostatic rebound, other atmospheric constituents, etc.) are at least as important as carbon dioxide in relative sea level rise.

After we have had a chance to study the National Academy of Sciences report, we would be in a better position to determine if additional study of this problem is warranted, and, if so, what should be the scope and focus of such a study.

QUESTION: Mr. Secretary, would you please state Army's views on Section 222 of S. 366.

RESPONSE: Section 222 would mandate a cost-effectiveness review of each project which has a cost in excess of $10 million on which construction has not started.

We believe this provision to be unnecessary and costly. The Corps already has a more cost effective program termed "Value Engineering" that implements the intent of this provision on projects where best opportunities for cost savings exist. Value Engineering is concerned with the elimination or modification of anything that contributes to the cost of an item or task but is not necessary for needed performance, quality, maintainability, reliability, aesthetic, or interchangeability, or other intended function or objective of a project.

QUESTION: Mr. Secretary, would you please state Army's views on Section 225 of S. 366.

RESPONSE: Section 225 would authorize (a $15 million annual/$2 million per project) small project streambank erosion control program.

The Corps currently is involved in streambank erosion control efforts either as a component of flood control or navigation development or under the small project emergency streambank protection authority (Section 14 of the 1946 Flood Control Act, as amended). We believe that our current efforts are commensurate and reflective of the Federal interest in this area and, in consideration of the limited Federal resources and other pressing higher priority water resource needs, do not support an expansion of either authority or efforts in this area.

QUESTION: Mr. Secretary, would you please state Army's views on Section 226 of S. 366.

RESPONSE: Section 226 would require that (1) no potential bidder be precluded from bidding on a Corps Civil Works construction contract due to the size of such bidder, and (2) contractors not be required to peform recordkeeping that is the responsibility of the Secretary of the Army.

This section would effectively eliminate the small business/minority set-aside programs applicable to the Corps Civil Works construction program. This would be in conflict with the stated policy of the Administration to assist small business firms.

QUESTION: Mr. Secretary, would you please state Army's views on Title VIII of S. 366.

RESPONSE: Title VIII would establish a new $2.5 billion, 5-year program providing loans to operators of water supply systems. Half of the money would be allocated to States in proportion to their population, the other half distributed at the Secretary of the Army's discretion. Repayment of loans would be at current interest rate with a maximum 30-year payback, or, upon a determination of severe economic burden, in accordance with the Water Supply Act of 1958. Title VIII also declares that single purpose M&I water supply (development, expansion, or rehabilitation) is a legitimate Federal purpose.

Expansion of Federal assistance into the local water distribution area is unwarranted. Local water systems have traditionally been supported by the sale of public bonds or by revenues from water sales. Furthermore, the repayment subsidies made possible by this title would place unacceptable additional burdens on the Federal budget.

QUESTION: Mr. Secretary, would you explain the purpose of Section 402 of your proposal.

RESPONSE: This section authorizes additional appropriations necessary to complete all construction of comprehensive river basin plans for flood control, navigation and other purposes in each of 28 river basins which are presently subject to limits on the amount of funds that can be appropriated.

This legislation would eliminate the need for yearly consideration by the President and Congress of river basin monetary authorization legislation. It is not intended to diminish Congressional oversight for the Army Civil Works program, but rather, to promote efficiency in the exercise of that oversight function.

Beginning with the Flood Control Act of 1928, Congress authorized certain basin and project plans for construction, subject to limitations on the amount of funds that could be appropriated for the plans in each basin. Today a total of 28 basins are subject to monetary limitations. In past years, Congress has had to enact river basin monetary authorization legislation to raise these limits on an annual basis and occasionally, as in 1977, twice in one year. In 1978, failure to pass such legislation disrupted schedules on several projects and required suspension of on-going contracts on others. This resulted in significant cost increases for the Federal Government and serious hardships for construction workers who were laid off during the suspension of work on the projects. In addition, the delays placed an administrative burden on the Army Civil Works Program, as project schedules based on actual appropriations by the Congress were repeatedly disrupted.

The river basin monetary limits no longer serve a useful oversight function. Since the passage of the Congressional Budget and Impoundment Control Act of 1974, the authorization committees of both Houses of Congress have developed procedures to provide for annual review of the entire Army Civil Works Budget. These annual reviews of the Federal Civil Works Program remove the need for periodic review of that portion of the program subject to river basin monetary authorization limits. The annual review and subsequent appropriations have resulted in appropriations for several of these basins which exceed the monetary authoriation, thus rendering the authorized limitations meaningless.

Section 402

Detailed Information on Projects Adversely Affected

1. Halted Work - 20 contracts briefly
   - Bear Creek Lake, CO - 7 Contracts
   - Chatfield Lake, CO - 8 Contracts
   - Arkansas River Basin - 1 Contract
   - Columbia River Basin - 4 Contracts

2. Deferred Awards - 7 Basins
   - Brazos River Basin
   - Columbia River Basin
   - Missouri River Basin
   - North Branch Susquehanna River Basin
   - Ohio River Basin
   - Red River Waterway
   - South Platte River Basin

3. Employees Lost Jobs
   - 85 on Bear Creek Lake Earthwork Contract
   - 20 - 25 Indirect on Bear Creek Lake Earthwork Contract

4. Significant Cost Increases - On the Bear Creek Lake Earthwork Contract which was originally awarded for $27 million there was $1.0 million work left to complete at time of contract termination. That $1.0 million work left cost over $3.4 million to complete.

QUESTION: Mr. Secretary, would you explain the purpose of Section 403 of your proposal.

RESPONSE: This section would permit the Washington Aqueduct, which provides water to Washington, D.C. via the District of Columbia water system, to sell water directly to authorities in the State of Maryland in a manner similar to the presently authorized sale of water to Virginia communities. It would also permit the Washington Aqueduct to purchase water from Maryland authorities when necessary to meet emergency conditions. Such authorization would allow the construction of a major new interconnection between the two largest water utilities in the Washington Area, the Washington Aqueduct Division (WAD) and the Washington Suburban Sanitary Commission (WSSC). This type of interconnection has been recommended in several studies in order to provide for mutual assistance between Washington area utilities in times of crisis. The WSSC would finance construction of all pipelines and pumping stations required.

QUESTION: Mr. Secretary, would you explain the purpose of Section 404 of your proposal.

RESPONSE: This section is similar to Section 330 of S. 366. Section 404 would increase by $6,667,000 the amount of Federal funds available for rehabilitation of the Illinois-Mississippi Canal. By a series of agreements between the State of Illinois and the Federal Government, the canal was turned over to the State in 1970, for use as a parkway. As part of the transfer, P.L. 85-500 specified rehabilitation work to be completed by the Corps. The work started in the 1960's and continued until 1974 when it was suspended awaiting the outcome of a lawsuit. A total of $8,528,000 has been authorized to be spent on the rehabilitation work. The Illinois Department of Conservation has recently completed a master plan for the parkway which includes rehabilitation work consistent with work authorized to be done by the Federal Government. At current price levels (October 1984), it is estimated that a total expenditure of $15,195,000 would be required to complete the rehabilitation work by the Corps. Of the total amount, $2,000,000 was expended prior to the transfer in 1970 and the remaining $13,195,000 [illegible] for work authorized subsequent to the transfer.

QUESTION: Mr. Secretary, would you explain the purpose of Section 405 of your proposal.

RESPONSE: This section, which would relocate the present navigation boundaries in City Waterway, Tacoma Harbor, Washington, to remove an unnecessary restriction on marine development by local interests, would accomplish the identical purpose of Section 306 of S. 366. Section 405 reflects the recommendation of the Chief of Engineers, which in this instance, is the same as the recommendation of the Seattle District Engineer.

QUESTION: Mr. Secretary, would you explain the purpose of Section 504 of your proposal.

RESPONSE: This section is similar to Section 211 of S. 366, which would allow states having constitutional restrictions to obligating future revenues to enter into contracts for their share of a project's costs without financially obligating future state legislatures, except that Section 504 would also allow states that have only statutory restrictions the same relief.

In addition, Section 504 would repeal Section 221(e) of the Flood Control Act of 1970. That subsection requires the Secretary of the Army to maintain a continuous inventory of the status of all Section 221 cooperation agreements and to report to Congress annually thereon. While the Corps would continue to maintain an inventory of all agreements, reporting to Congress no longer serves a useful purpose as it once did in the early years after Section 221 was enacted.

QUESTION: Mr. Secretary, would you explain the purpose of Section 505 of your proposal.

RESPONSE: This section would authorize the U.S. Army Corps of Engineers to continue certain advance engineering and design of water resources development projects prior to their authorization for construction, where the Secretary of the Army has already submitted a favorable report on the projects to Congress. Such advance engineering and design (AE&D) in the past was undertaken only after Congress actually authorized the project for construction.

Since 1981, Congress has allowed funding of "detailed studies and plans and specifications" of water resources development projects of the Department of the Army out of the General Investigations account of the Department's annual Civil Works appropriations measure. This has permitted the Corps of Engineers to continue AE&D on projects for which a final report has not yet been submitted to the Congress. In some cases involving broad study authorizations, the Corps can submit an interim report, covering a portion of the study area and continue with AE&D while awaiting action on that recommendation. This is not possible where a final report has been submitted to the Congress since transmittal of a final report terminates the Corps authority to undertake any further study of a project.

Section 505 would allow preconstruction advance engineering and design on projects for which the Secretary of the Army has already submitted final feasibility reports. If a report recommends implementation of the project, and if the Secretary of the Army determines that continuation of project planning is in the public interest, the Corps of Engineers may initiate advance engineering and design of the project.

QUESTION: Mr. Secretary, would you please explain the purpose of Section 506 of your proposal.

RESPONSE: Similar to the intent of Sections 203 and 204 of S. 366 to deauthorize projects or separable elements thereof, as well as studies which have little or no chance of producing viable solutions or projects to problems perceived years ago, Section 506 would improve and streamline the current Section 12 (Water Resources Development Act of 1974) deauthorization process.

The proposed changes will significantly improve the efficiency of the Section 12 deauthorization process in identifying authorized projects which are no longer needed or are not justified by todays standards. It will help to reduce the Corps current backlog of an undetermined number of studies and approximately 400 authorized Civil Works projects plus an undetermined number of separable elements of projects for which no funds have been appropriated for at least eight years.

QUESTION: Mr. Secretary, would you explain the purpose of Section 508 of your proposal.

RESPONSE: This proposal would abolish the California Debris Commission and the authority to regulate hydraulic mining. Hydraulic mining has become uneconomical, and the industry has collapsed. It is not anticipated that any new permits will be issued in the foreseeable future. Thus, there is no need for a separate commission to process permits. Furthermore, should the need arise, such activities would be subject to adequate Federal regulation via the permit requirements of Section 10 and 13 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403, 407) and Sections 402 and 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1342, 1344).

But, while the California Debris Commissin no longer has a meaningful role to play with respect to the regulation of hydraulic mining, it continues to perform a valuable supervisory role with respect to several existing navigation and flood control projects. The Commission's remaining supervisory responsibilities in this area would be transferred to the Corps of Engineers.

In addition, all of the Commission's assets and liabilities would be transferred to the Corps. The Corps would be authorized to retain all real property interests presently under the Commission's jurisdiction and to take such actions as are necessary to consolidate holdings and perfect title. These real property interests are needed for the continued operation of existing Commission projects.

QUESTION: Mr. Secretary, would you explain the purpose of Section 509 of your proposal.

RESPONSE: This section would amend Section 111 of the River and Harbor Act of 1968 to allow implementation of nonstructural measures to mitigate shore damage attributable to Corps navigation projects and to require local interests to share the cost of all work in the same proportion as the project causing the problem. Section 111 authorizes the Secretary of the Army to investigate, study, and construct projects for the prevention or mitigation of shore damages attributable to Federal navigation works. The authority is discretionary. The Federal Government now bears the entire cost of installing, operating and maintaining the projects. Furthermore, if the estimated first cost of any project exceeds $1,000,000 specific congressional authorization is required.

In the exercise of this discretionary authority, we have discovered several instances where nonstructural measures could accomplish the stated goals of Section 111 at less cost. In addition, such nonstructural measures could prove to be more environmentally sound over the long run than the construction of shore protection projects.

QUESTION: Mr. Secretary, would you explain the purpose of Section 510 of your proposal.

RESPONSE: This section would amend Section 19 of the River and Harbor Act of 3 March 1899 and Section 20 of the River and Harbor Act of 3 March 1899 to provide that the operator, owner, lessor or lessee, associated with a wreck either singularly or collectively shall reimburse the United States for any expenses related or incidental to the removal and salvage, including storage. Any money received from such reimbursement or from the sale or disposition of any such wreck shall be deposited into the general fund of the Treasury of the United States. Currently, the Corps costs of removal can only be offset by the salvage value of the wreck which, in the case of abandoned vessels, is usually less than the cost of removal.

QUESTION: Mr. Secretary, would you explain the purpose of Section 511 of your proposal.

RESPONSE: This section would authorize the sale or lease of dredges and related equipment in storage.

In 1978 Congress enacted Public Law 95-269, which amended Section 3 of the Act of August 11, 1888 (25 Stat. 423; 33 U.S.C. 622) and thereby established a new national policy of encouraging private industry to perform most of the dredging previously done directly by the Federal Government. As the dredging industry demonstrated its capability to accomplish the work, the Corps retired the Federal dredging fleet.

Currently, the Corps of Engineers has in floating storage 12 dredges. In addition, spare parts for these dredges occupy valuable warehouse and yard storage space at a number of locations. The storage costs are being absorbed by the projects on which the remainder of the Corps fleet works and little or no work was done to preserve the old dredges. The storage costs are substantial and the space occupied by spare parts and patterns is needed for the existing fleet and other uses.

Both Congress and the Administration have recognized the significant investment the dredging industry has made in hopper dredges. Were the Federal Government to suddenly make available as surplus the hopper dredges retired from the Federal fleet, the industry's investment could be undercut and the national dredging program established in P.L. 95-269 could be undone. In deference to the wishes of Congress first articulated in House Report No. 1490, 95th Congress, Second Session (1978), the Corps has retained its retired hopper dredges pending new legislation authorizing disposal in a way that will not harm the national dredging program now in place. Section 511 would authorize the disposal of surplus dredges in such a manner.

QUESTION: Mr. Secretary, would you explain the purpose of Section 512 of your proposal.

RESPONSE: This section would amend 10 U.S.C. 3036, which currently authorizes the Chief of Engineers to provide planning, design, and construction services to other Federal departments, agencies or instrumentalities, to allow the Corps to provide such services to non-Federal public entities on a reimbursable basis.

The Corps authority to undertake work for non-Federal public entities is contained in the Intergovernmental Cooperation Act which authorizes Federal agencies to provide "specialized and technical services" to states and political subdivisions on a reimbursable basis when the agency has a particular expertise which is not reasonably and expeditiously available through ordinary business channels. This authority has generally been interpreted as not providing authority to undertake actual construction work.

The authority to undertake construction work for non-Federal public entities on a reimbursable basis would allow the Corps to provide a valuable service to the Nation at no cost to the Federal Government. In addition, obtaining authority to undertake construction work for non-Federal public entities would help ensure the availability of a well trained and experienced work force resulting in a more efficient and effective execution of the Civil Works program.

QUESTION: Mr. Secretary, would you explain the purpose of Section 513 of your proposal.

RESPONSE: This section would authorize the Chief of Engineers to modify navigation project channel dimensions at the channel entrances, bends, sidings, and turning places after the project becomes operational.

It is only through actual operation of the project that it is possible to determine with precision, the exact dimensions required for the safe passage of vessels at the entrances, bends, sidings, and turning places. Section 5 of the River and Harbor Act of 4 March 1915, provides for these type adjustments while the project is in the planning, design, and construction stage but makes no provision for modification after construction is completed. Presently, the only means available to modify the project is through the lengthy process of obtaining enabling legislation.

QUESTION: Mr. Secretary, would you explain the purpose of Section 514 of your proposal.

RESPONSE: This section would raise the single project cost limits on several of the small projects continuing authorities without expanding the overall program limits. Since Congress last authorized increases in the project cost limits, inflation has significantly eroded the size and scope of projects eligible to be undertaken under the various continuing authorities. As a result, projects which would have been eligible to be undertaken under the Continuing Authority Program had they been proposed shortly after the last increase in cost limits are no longer eligible. Section 514 would restore most of the lost purchasing power.

QUESTION: Mr. Secretary, would you explain the purpose of Section 515 of your proposal.

RESPONSE: This section would amend Section 14 of the Act of March 3, 1899, to provide specific authority for the Corps to approve alteration or use of navigation and flood control improvements where the Secretary of the Army determines that such use would be in the public interest and will not impair the usefulness of the work constructed by the United States. The Corps has been asked to approve non-Federal construction in a number of instances where the proposed improvement would benefit the local economy without impairing the effectiveness of the structure built by the United States. Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408) declares it to be unlawful for any person to alter or make use of any improvement built by the United States for navigation or flood control. The section does allow the Corps to approve occupation or use where such occupation or use is temporary and not "injurious to the public interest." However the Corps lacks the authority to approve any construction, alteration, or use when the activity will result in a permanent alteration or improvement of the structure built by the United States.

QUESTION: Mr. Secretary, would you explain the purpose of Section 516 of your proposal.

RESPONSE: This section enables the Secretary to draw upon the Civil Works resources of the Corps of Engineers in time of war or national emergency.

Subsection (a) authorizes the Secretary to free Civil Works resources, including funds, personnel, and equipment, from projects not essential to the national defense and to apply those resources to authorized Civil Works, military construction, and civil defense projects critical to the national defense. Under this authority the Secretary could, for example, terminate work on a recreation facility and utilize the newly freed funds and personnel to construct barracks for mobilized reserve units. This authority would be available only in two very limited situations: in time of war declared by Congress, or in time of national emergency, military in nature, declared by the President in accordance with the National Emergencies Act.

Subsection (b) requires the Secretary to notify the appropriate Congressional committees immediately upon exercising the authorities provided by subsection (a). In addition, this subsection specifies that those authorities shall cease to be exercised not later than 180 days after the termination of the state of war or national emergency that led to their invocation.

QUESTION: Mr. Secretary, would you explain the purpose of Section 517 of your proposal.

RESPONSE: Similar to the intent of Section 224 (a)(1) of S. 366, this section would require the Corps of Engineers to acquire justified separable fish and wildlife mitigation lands, concurrently with acquisition of project lands. This requirement would apply to any project for which mitigation has been authorized, and would assure that mitigation measures are provided concurent with the need.

QUESTION: Mr. Secretary, would you explain the purpose of Section 518 of your proposal.

RESPONSE: This section amends the River and Harbor Act of September 22, 1922 to increase from $100 to $50,000 the penalty for failure to provide information relative to vessels, passenger, freight, and tonnage required by the Secretary as part of the Waterborne Commerce Statistics Program . It also allows the Secretary to assess a civil penalty of up to $25,000 for failure to provide timely and accurate statements. Besides helping to ensure compliance with the existing requirement, the need for accurate data is even more important in connection with computing user fees and cost sharing under our proposed navigation cost sharing proposals.

QUESTION: Mr. Secretary, would you explain the purpose of Section 519 of your proposal.

RESPONSE: This section amends the River and Harbor Act of June 13, 1902 which allows for non-Federal interests to construct improvements on navigable waters, subject to approval of the Secretary, but prohibits charging tolls for the use of those improvements. This amendment would allow non-Federal interests to collect tolls to recover non-Federal costs pursuant to title I of the bill.

RESPONSES TO QUESTIONS FROM SENATOR STAFFORD

QUESTION: Please provide the Committee with your views on the merits of each of the following bills that have been referred to the Committee: S. 214, S. 267, S. 268, S. 269, S. 270, S. 271, S. 303, S. 307, S. 362, S. 378, S. 449, S. 463, S. 532, S. 533, S. 539, S. 557, S. 574, S. 602, S. 603, S. 792, S. 900, and S. 968.

RESPONSE: Our views on each of the bills are as follows:

S. 214 - This bill would authorize the Charleston Harbor, South Carolina, deepening project in accordance with the Report of the Chief of Engineers. We support authorization of the project provided that the project is authorized in accordance with cost-sharing and financing arrangements reflected in Army's legislative proposal, S. 534.

S. 267 - This bill would authorize a beach erosion project at Presque Isle Peninsula, Pennsylvania, in accordance with the recommendations contained in the Report of the Chief of Engineers. We do not support authorization of this proposed project as proposed in the Report of the Chief of Engineers since the justification was based primarily on enhancement of recreational opportunities. Projects primarily for the benefit of recreation are inconsistent with this Administration's budget priorities and are not in agreement with its policy to rely on the private sector. However, the Corps Buffalo District Office is reviewing the previous study to determine if the plan of improvement can be reformulated to develop a project which can be justified based on beach nourishment and harbor maintenance dredging cost savings.

S. 268 - This bill would authorize a flood damage prevention project on the West Branch of the Susquehanna River at Lock Haven, Pennsylvania, in accordance with the recommendations contained in the Report of the Chief of Engineers. We support authorization of a smaller scope project at Lock Haven as reflected in our letter dated March 6, 1984, transmitting the feasibility report to Congress and provided that the project is authorized in accordance with cost-sharing and financing arrangements reflected in Army's legislative proposal, S. 534.

S. 269 - This bill would authorize a flood damage prevention project in Wyoming Valley, Pennsylvania, in accordance with the recommendations contained in the Report of the Chief of Engineers. The report on this project is currently under review by this office. Until this review is completed and the project is cleared by my office and subsequently reviewed and cleared by the Office of Management and Budget, we do not support authorization of the project.

S. 270 - This bill would authorize a flood damage prevention project on the Susquehanna River in Harrisburg, Pennsylvania, in accordance with the recommendations contained in the Report of the Chief of Engineers. We support authorization of the project provided that the project is authorized in accordance with cost-sharing and financing arrangements reflected in Army's legislative proposal, S. 534

S. 271 - This bill would authorize a flood damage prevention project on the West Branch of the Susquehanna River in Milton, Pennsylvania, in accordance with a report of the Corps of Engineers entitled "Local Flood Protection Study at Milton, Pennsylvania," dated July 13, 1977. The report referenced in the bill was prepared by the Corps' Baltimore District. This preliminary report, which was not reviewed by either my office or the Office of the Chief of Ennginears, indicates that the most feasible flood damage prevention plan for Milton has a benefit-cost ratio of 0.66. In view of the lack of economic justification of any flood damage prevention plan, we are opposed to authorization of this project.

S. 303 - Section 2 of this bill would authorize a $25 million program of research and technical assistance (including the acquisition of equipment) for the control of river ice, and would authorize a $900,000 river ice control demonstration project at Hardwick, Vermont. Section 3 of the bill would authorize a $25 million program to: (1) undertake surveys, upon the request of local public officials, of former industrial sites, millraces, and similar facilities to evaluate their potential for rehabilitation as hydroelectric facilities, and (2) provide technical assistance to local public agencies in designing projects for rehabilitation. Section 4 of the bill would authorize modifications of the Waterbury, Vermont, project.

In regard to Section 2, we recognize that flooding or streambank erosion due to ice-jams is a problem in the northern parts of the country, particularly the Northeast. The Corps, as part of the research and development program, is currently investigating not only ice-jam flooding problems but is also studying other river ice problems such as ice-jammed water supply intakes and navigation related ice problems.

Through the Flood Plain Management Services program, the Corps, upon request, provides a full range of technical services on floods and flood plain issues to Federal, State, and local agencies. Technical assistance to communities on ice-jam flooding problems is an eligible activity under this program and the Corps has previously provided such assistance.

Lastly, the Corps is also addressing ice-jam flooding problems at specific communities, e.g., Port Jervis, New York, and Cazenovia Creek (near Buffalo), New York, through both the Small Flood Control Project Authority (Section 205 of the 1948 Flood Control Act, as amended), as well as the Feasibility Study program.

We believe that we have both sufficient authority and adequate established programs to deal with the river ice problem, including the problem at Hardwick, Vermont. As a result, we see no need for this section of the bill.

In regard to Section 3 of the bill, we would oppose initiating additional programs at Federal expense. We view this as a potential role for the Corps in assisting non-Federal entities, but with non-Federal financing. This would be consistent with our proposal to authorize the Corps to do work for non-Federal public entities on a reimbursable basis.

In regard to Section 4 of the bill, there is no need for this provision. The Corps is currently undertaking the safety modifications of the Waterbury Dam project.

S. 307 - This bill would amend the existing conveyance of property to Mountrail County Park Commission, North Dakota, to include the Olson Second Addition and to permit the Park Commission to designate a portion of the lands conveyed for leasing of cabin sites. The bill further stipulates that the Park Commission shall reimburse the Federal Government at fair market value for any lands used for leasing of cabin sites.

The property, excluding the Olson Second Addition, has previously been conveyed to Mountrail County. The Corps has retained no easement rights. The Olson Second Addition is expected to be determined excess to our needs. Therefore, we have no objections to the bill.

S. 362 - This bill would authorize the Secretary of the Army, acting through the Chief of Engineers, to use certain lands within the Cape Hatteras National Seashore and the Pea Island National Wildlife Refuge to implement the Manteo (Shallowbag) Bay, North Carolina, project. The Department of the Interior has determined that they cannot issue permits for the use of these lands to construct the navigation project. In view of the Department of Interior decision, this legislation appears to be the only way to proceed with the implementation of the navigation project as authorized and designed.

S. 378 - This bill would modify the existing hurricane-flood protection and beach erosion control project along the Delaware coast by deleting hurricane-flood protection and authorizing the construction of sand bypassing facilities and erosion control measures at Indian River Inlet in accordance with a reevaluation report of the Philadelphia District Engineer, dated January 1984. The report on this modification is currently being reviewed by the Office of the Chief of Enngineers. Until the report has been fully reviewed and cleared by the Administration, we do not support authorization of the proposed modification.

S. 449 - This bill would provide disaster relief for roads and beaches on the eastern coast of Florida which were destroyed in fall 1984 storms. Non-Federal interests would be required to provide 50 and 100 per centum of the costs of restoring publicly and privately owned beaches, respectively. Up to 90 per centum of the non-Federal costs could be guaranteed by the Army.

We have sufficient authority to provide disaster assistance. P.L. 84-99 authorizes the repair and restoration of Federal hurricane or shore protection structures damaged or destroyed by wind, wave, or water action of other than an ordinary nature. Section 55 of P.L. 93-251 authorizes us to provide technical and engineering assistance to non-Federal public interests in developing methods of preventing damages attributable to shore erosion. Therefore, we do not see any need for this bill.

S. 463 - This bill would authorize a flood protection project for Lake Wichita, Holliday Creek, Texas, in accordance with the recommendations contained in the Report of the Chief of Engineers. We support authorization of the project provided that the project is authorized in accordance with cost-sharing and financing arrangements reflected in Army's legislative proposal, S. 534.

Sec. 532 - This bill would amend the Water Resources Research Act of 1984 (P.L. 98-242) to establish a $55 million R&D and grant program, administered by the Department of the Interior, on the depletion of the Ogallala Aquifer. Since this proposed program would be administered by the Department of the Interior, we defer to their views on the merits of this bill.

S. 533 - This bill would make miscellaneous changes to Civil Works programs and activities of the Department of the Army and the water resource program of the Department of Agriculture through provisions amending existing law or adding new law. Fifteen out of the sixteen provisions are also included in the current Senate water resources development omnibus bill, S. 366. Our views on each of the provisions are as follows:

Sec. 2 - This provision is similar to Section 201 of S. 366. It would require that flood control project beneficiaries receiving more than 10 percent of the project's total benefits due to an increase in the anticipated value of the beneficiaries' land must pay 50 percent of the cost of the project allocated to such benefits. We agree with the concept of requiring beneficiaries to pay a substantive portion of project costs. The concern which prompted this provision may be partially alleviated by adoption of greater non-Federal cost-sharing and financing requirements of all flood control projects as has been proposed in our legislation (S. 534). Furthermore, Section 2 would lead to inconsistency in cost-sharing among flood control projects.

Sec. 3 - This provision is similar to Section 402 of S. 366. It would require that reports prepared by the Corps and the Soil Conservation Service which propose construction of a dam to provide information on the possibility of failure of such a dam, the impact of such a failure, and the design features that would prevent, lessen, or mitigate such failure or impact. We believe that this provision would unduly emphasize the potential for dam failure which cannot be quantified. The current interagency guidelines covering Federal dam safety are adequate to protect the public interest.

Sec. 4 - This provision is similar to Section 202 of S. 366. It would require that reports prepared by the Corps and the Soil Conservation Service submitted to Congress include data on public recreation facilities in the project area and the anticipated impact of the proposed projects on such facilities. We have no objections to this provision.

Sec. 5 - This provision would make the Secretary of the Treasury responsible for the preparation of all calculations on transportation-related benefits for water resources projects proposed by the Secretary of the Army. The Principles and Guidelines for Water and Related Land Resources Implementation Studies clearly specify the concepts and procedures to be used in estimating transportation benefits from navigation projects. The Corps has the expertise to apply this guidance and the Department of Transportation (DOT) does not. Furthermore, it is more efficient and effective for the agency planning and constructing navigation improvements to be responsible for determining the benefits from such improvements.

Sec. 6 - This provision is similar to Section 203 of S. 366. It would establish a new project deauthorization process which would automatically deauthorize projects or separable elements thereof, on which construction has not commenced within ten years following authorization unless the Secretary of the Army, after consulting appropriate states, determines the project is needed and justified and notifies the oversight Committees. We strongly support a more streamlined deauthorization process such as embodied in this section and have included a provision in Army's legislative proposal, S. 534, which would improve and streamline the current Section 12 (Water Resources Development Act of 1974) deauthorization process.

Sec. 7 - This provision is similar to Section 204 of S. 366. It would establish a study deauthorization process that would automatically deauthorize studies for which no funds have been appropriated for five years following their authorization. We strongly support an automatic study deauthorization process such as this one and have included a similar provision in Army's legislative proposal, S. 534. However, in our bill the trigger for deauthorization is based on obligation, rather than appropriations, of study funds. Obligations, which reflect a commitment for expenditure of funds, are a more accurate trigger than appropriations.

Sec. 8 - This provision is nearly identical to Section 226 of S. 366. It would require that (1) no potential bidder be precluded from bidding on a Corps Civil Works construction contract due to the size of such bidder, and (2) contractors not be required to perform recordkeeping that is the responsibility of the Secretary of the Army. This provision would effectively eliminate the small business/minority set-aside programs applicable to the Corps Civil Works construction program. This would be in conflict with the stated policy of the Administration to assist small business firms.

Sec. 9 - This provision is similar to Section 222 of S. 366. It would mandate a cost-effectiveness review of each project which has a cost in excess of $10 million on which construction has not started. We believe this provision to be unnecessary and costly. The Corps already has a more cost effective program termed "Value Engineering" that implements the intent of this provision on projects where best opportunities for cost savings exist. Value Engineering is concerned with the elimination or modification of anything that contributes to the cost of an item or task but is not necessary for needed preformance, quality, maintainability, reliability, aesthetic, or interchangeability, or other intended function or objective of a project.

Sec. 10 - This provision is similar to Section 205 of S. 366. It would amend Section 2 of P.L. 83-566 to provide a limit of $10 million for Soil Conservation Service (SCS) projects that can be authorized by the Public Works Committees. Since this is a program which is administered by the Department of Agriculture, we defer to their views on this provision.

Sec. 11 - This provision is similar to Section 206 of S. 366. It would amend Section 2 of P.L. 83-566 to require that SCS projects submitted to the Public Works Committees for authorization must have at least 20 percent direct agricultural benefits. Since the P.L. 83-566 Small Watershed Program is an activity which is administered by the Department of Agriculture, we defer to their views on the merits of this provision.

Sec. 12 - This provision is similar to Section 207 of S. 366. It would require the Secretary of Agriculture to study and report to Congress on the potential of opening up SCS small watershed projects for public recreation. Since this is a program which is administered by the Department of Agriculture, we defer to their views on this provision.

Sec. 13 - This provision is identical to Section 311 of S. 366. It would modify the existing authorization for the Truth or Consequences Project in New Mexico to allow construction of a dam rather than a floodway. This office has not seen a report providing justification for such a modification. Therefore, we do not support authorization.

Sec. 14 - This provision is identical to Section 303 of S. 366. It would authorize construction of a set of gates costing $2.5 million in the conduit of the Abiquiu Dam, New Mexico, at full Federal expense. Although the language of this provision states that the purpose of these gates is to increase safety and enhance flood and sediment control, it is our understanding that the main purpose of the gates is for water supply. Adequate authority exists (Water Supply Act of 1958) to construct the gates provided the beneficiaries pay for such construction. Therefore, we oppose this provision.

Sec. 15 - This provision is identical to Section 304 of S. 366. It would change the District boundaries of three Corps District offices, Los Angeles, Sacramento, and Albuquerque by transferring those areas in New Mexico under the responsibility of District offices in Los Angeles and Sacramento to Albuquerque. We are opposed to such a change. State boundaries are generally inconsistent with project water resources management and development which is conducted on a river basin basis.

Sec. 16 - This provision is similar to the provision contained in Section 701(a) of S. 366. It would authorize for construction two flood control projects, the Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico, project and the Puerco River and Tributaries, Gallup, New Mexico, project, generally in accordance with the Report of the Chief of Engineers. During our review of the Chief's Report on the Middle Rio Grande project we had some technical questions which required additional analysis and evaluation. This reevaluation is currently underway. Until the reevaluation is completed and the report is reviewed and cleared by my office and the Office of Management and Budget, we do not support authorization of this project.

In regard to the Puerco River project, we support authorization of a smaller scope project as reflected in our letter dated December 5, 1983, transmitting the feasibility report to Congress and provided that the project is authorized in accordance with cost-sharing and financing arrangements reflected in Army's legislative proposal, S. 534.

S. 539 - This bill would establish a $25 million streambank erosion control demonstration program in the State of Nebraska.

Section 32 of the Water Resources Development Act of 1974, as amended, authorized a $50 million National Streambank Erosion Evaluation and Control Demonstration Program. This program consisted of an evaluation of the extent of streambank erosion, nationwide; a literature survey and evaluation of basic protection methods; hydraulic research on effectiveness of bank protection methods; research on soil stability and identification of causes of streambank erosion; and 68 demonstration projects (of which six were located in Nebraska) reflecting a variety of geographical and environmental conditions. The final report on this program was submitted to Congress in April 1982. In addition, a public information brochure and a pamphlet were prepared and have been provided State and local interests for their information and use.

In view of the above, we see no need for an additional $25 million erosion control demonstration program in the State of Nebraska.

S. 557 - This bill would authorize a $30 million bank erosion control project on the Rillito River in the vicinity of Tucson, Arizona.

Although the Corps' Los Angeles District is nearing completion of their investigation of bank erosion and channel degradation problems on the Rillito River, a final District Report will not be available until later this summer. We believe that authorization of any proposed project that has not been fully reviewed by the Administration is premature. This is especially true of projects such as the one proposed in this bill, which are still under active study.

S. 574 - This bill would direct the Secretary of the Army, acting through the Chief of Engineers, and the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, to conduct a joint study to examine the costs and benefits of using irrigation storage facilities for flood control purposes in the North Platte River Basin.

Although we have no objections to such a study, we believe that since the existing reservoirs were constructed and are under control of the Bureau of Reclamation, the Department of the Interior is the primary agency to provide views on this bill.

S. 602 - This bill would authorize a $14 million streambank stabilization project to preserve and protect the Fort Toulouse National Historical Landmark and Tuskigi Indian Mound in the County of Elmore, Alabama. This office has not seen a report identifying what, if any, is the Federal interest or the justification of undertaking such a project. Therefore, we do not support authorization.

S. 603 - This bill would authorize a $4.1 million streambank erosion control project along the banks of the Warrior River to protect Mound State Park near Moundville, Alabama. This office has not seen a report identifying what, if any, is the Federal interest or the justification of undertaking such a project. Therefore, we do not support authorization.

S. 792 - This bill would deauthorize the Cross-Florida Barge Canal project and would direct the Army to continue to operate Rodman Dam, after:

(1) Florida enacts a law giving counties the first right to purchase surplus lands required for the project;

(2) Florida enacts a law prohibiting transfer of surplus project lands in the expanded Ocala National Forest to any person, except the Federal Government; and

(3) Florida enacts a law granting the United States a perpetual easement to flood lands in the Ocala National Forest from Eureka Lock and Dam to the St. Johns River.

We have not taken a position on current proposals to deauthorize this project which was about one-third complete when construction was halted in 1971. There are a number of complex ownership issues which must be addressed in any deauthorization proposal, and the Congress needs to give very careful consideration to this aspect before enacting deauthorization legislation.

S. 900 - This bill would protect the public investment in the right-of-way lands of the Cross Florida Barge Canal project. It would direct the Army to continue to operate completed portions of the project for recreation and fish and wildlife, but Eureka Dam could not flood any land not flooded on 1 January 1984. It also would prohibit further obligation of funds for construction until an environmental impact statement is completed which finds no significant adverse environmental impact.

As noted in our comments on S. 792, we have not taken a position on any legislation pending in the Congress concerning the Cross Florida Barge Canal project.

S. 968 - This bill would amend the Water Supply Act of 1958 in the following manner:

(1) It would require local interests to declare their intention in a letter of assurance at the time when such interests are going to use any future water supply;

(2) It would reduce the amount of storage that could be allocated to future water supply from the current 30 percent of the total estimated project cost to 20 percent.

(3) It would eliminate the present interest free period on the cost allocated to future water supply until such supply is used, up to a maximum of 10 years;

(4) It would require repayment of the cost allocated to future water supply to begin at least within 10 years;

(5) It would require that an annual operation, maintenance, and replacement costs be reimbursed by local interests on an annual basis; and,

(6) It would modify the interest rate used for computing interest during construction and interest on the unpaid balance to reflect average market yields of obligations of the United States with remaining periods to maturity comparable to the repayment period of the water supply contract.

Although we are pleased with the general direction of the bill, i.e., to secure a more timely repayment of the Federal investment in the water supply component of multipurpose water resource development projects, we believe the bill does not go far enough. Municipal and industrial water supply is a fully vendible project output that has traditionally been supported by the sale of public bonds or by revenues from water sales. As a result, we believe local interests are fully capable of financing all the costs allocated to this purpose without the need to provide any sort of Federal subsidy.

QUESTION: Would you provide us with a chart that lists various categories of benefits of Corps projects, together with columns that provide the following: current Law requirement for up-front non-Federal cost sharing, S. 366 requirement for up-front non-Federal cost sharing, and the requirements in S. 534 and S. 967 for up-front non-Federal cost sharing. By up-front, I mean during the construction phase of the project?

RESPONSE: Table follows:

Up-front Non-Federal Construction Costs
During Period of Construction

	Current Law	S. 366	Admin Proposal
Navigation			
Ports (Commercial)			
To depth of 20 ft.	LERRD	LERRD	70%
Deeper than 20 ft. to depth of 45 ft.	LERRD	30% + Disposal	70%
Deeper than 45 ft.	LERRD	25% + LERRD	100%
Recreational	50% + LERRD	Not addressed	70%
Inland			
Locks and Dams	LERRD	100% from Trust Fund + LERRD	1.5 mill/ton-mile fee
Channels & Waterways	LERRD	Not addressed	1.5 mill/ton-mile fee
Inland Ports	LERRD	Not addressed	70%
Flood Control			
Reservoirs	0	5% min	35% 1/
Local Protection	LERR	5% min + LERR	35% 1/
Beach Erosion	50% + LERR	5% min + LERR	2/
Hurricane Protection	30%	Not addressed	35% 1/
Hydropower	0	0	100%
Water Supply (M&I)	0	5% min	100%
Recreation			
Reservoir (Separable)	0	5% min	50% 1/
Reservoir (Joint)	0	5% min	50% 1/
Non-reservoir	50%	5% min	50% 1/

LERRD - Lands, easements, rights-of-way, relocations, and disposal areas (if applicable).
1/ - Subject to ability to pay during construction.
2/ - Assigned to appropriate purpose and shared as that purpose.

QUESTION: We have received a good deal of comment regarding the proposal for construction of a sediment control dam below Mount St. Helens. Would you tell us the full cost to the Federal Government of that proposal, the full cost to non-Federal interests, and describe the savings in some detail if we were to build only the first stage of the project, in case the sediment runoff is not as bad as feared? What would be the least costly construction that could be accomplished in order to retain current rates of sediment runoff? Also, how much has been spent to date by the Corps of Engineers on work related directly to the eruption of Mount St. Helens?

RESPONSE: Based on most current information contained in feasibility report dated December 1984.

The current Feasibility Report estimates the first cost (Oct 1984 price levels) to the United States of the preferred plan, a 177-foot high sediment retention structure (SRS) at the Green River site and downstream actions, at $230 million, $33.1 million of which would be funded under the existing authority for maintaining a 40 foot channel in the Columbia River; average annual operation, maintenance, and sediment monitoring costs to the United States are estimated at $975,000. Estimated total cost of the construction for the sediment retention structure only is $150,000,000. Non-Federal first costs are estimated to be $16,900,000, average annual non-Federal operation costs are estimated to be $75,000.

These costs for a single retention structure are now under review as part of Continuation of Planning and Engineering (P&E). In addition CP&E studies now underway will review the options of continued dredging and of building a retention structure in stages. Uncertainty about amounts and timing of sediment deposition make the staging analysis particularly complex. Cost savings from staging will depend upon how rapidly sediment is expected to move down the Toutle River. Therefore, at this time a credible evaluation of the staging alternative is not available. We expect to have such analysis completed late this summer.

The least-costly construction that could be accomplished using the current (feasibility study) sediment prediction is the feasibility report's preferred plan as described in paragraph 2 above. The least-costly construction to contain current rates of sediment runoff would be either dredging or a retention structure smaller than 177 feet. However, current rates of erosion may not be representative of the longer term when severe storms or volcanic activity may occur. Therefore, current rates of sediment runoff must be carefully evaluated to determine their relationship to long term expected rates of deposition. This will be completed by late summer as part of CP&E.

As of the end of March 1985, the Corps of Engineers has spent $375 million on Mount St. Helens related activities. This total includes the cost of dredging on the Toutle, Cowlitz and Columbia Rivers, construction of a debris retaining structure on both North and South Toutle River, levee construction and improvement, lake stabilization in the Upper Toutle River Basin including Spirit Lake, and study costs.

Q. What is the discount rate that you are using during Fiscal Year 1985? Please list there projects in S. 366, S. 534, and S. 967 that were calculated at a lower discount rate, and would fall below unity if the discount rate were raised to the 1985 figure?

A. The discount rate being used for Fiscal Year 1985 is 8 3/8%. Most of the Corps of Engineers reports referred to in S. 366, S. 534, and S. 967 were completed before FY 85 and, therefore, project values were calculated at a rate lower than 8 3/8%. However, we update values each year, to reflect current price levels and interest rates. At 8 3/8%, all of the projects recommended by the Chief of Engineers in reports referred to in S. 366, S. 534, and S. 967 have benefit-cost ratios at least equal to unity.

QUESTION: Please provide a list of those projects not included in S. 366 that have reports of the Chief of Engineers, as of close of business today. Please specify the cost, purpose, and location of each.

RESPONSE: A list of such proposed projects is attached.

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Report Name	Report Status	Total Cost ($000)	Purpose
Cape Girardeau, MO	w/ASA	24600	FDP
Ft. Gibson Lake, Powerhouse Extension, OK	w/ASA	24100	HYD
Grays Landing, L&D 7, Monongahela River, PA	w/ASA	95100	NAV
Hilo Harbor, HI	w/ASA	4010	NAV
Kentucky River, Disposition of L&Ds 5-14, KY	w/Cong	0	
1/ Libby Reregulation Pwr Units, MT (PHI)	w/Cong	79000	HYD
Lorain Harbor, OH	w/ASA	5491	NAV
Lower Snake River F&WL Compensation, WA & ID	w/ASA	0	F&WL
2/ Lucky Peak, ID	w/OMB	106200	HYD
Mt. St. Helens Sedimentation Control, WA	w/OMB	214100	FDP
Ramapo and Mahwah Rivers, NJ & NY	w/ASA	5700	FDP
Red River Waterway, F&W Mitigation, LA	w/ASA	11165	F&WL
Roughans Point Revere, MA	w/ASA	8200	FDP
Sheyenne River, ND	w/ASA	40400	FDP
Sugar Creek Basin, NC & SC	w/ASA	29300	FDP
Wando River, Charleston Harbor, SC	w/ASA	2946	NAV
West Memphis & Vic, AR (MRC)	w/ASA	20600	FDP

1/ Libby Reregulation Dam was found by a court decision to be not authorized.

2/ Lucky Peak power potential is being developed by a non-Federal interest under a FERC license.

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Question: Eliminating factors relating only to inflation, would you estimate for us the percentage in cost savings that could be achieved due to greater efficiency if Congress were to convert to a one-time appropriation for construction of new Corps projects, instead of the present year-by-year appropriations?

Answer: The potential cost savings resulting from a one time appropriation for Corps construction projects would be attributable the certainty of funding which could permit more economical project execution due to optimized construction schedules, economies of contract scale, and increased bidding interest as the result of funding flexibility. The magnitude of these savings would depend on the size of the project, assuming that other factors such as delays in local cooperation, difficulties with land acquisition, or diversion of engineering and design effort to emergency or other critical activities, do not otherwise adversely affect project construction schedules. Small projects that could ordinarily be completed in one or two years probably would not enjoy any savings. Larger projects might benefit from full funding, but the percentage would vary with the size, and complexity of the construction. There could also be some administrative savings due to a reduction in such tasks as annual budget preparation. However, we have no experience with full funding of civil projects on which to base an estimate of savings.

Question   What is the latest projection on cost for a new lock at Bonneville Dam?

Answer: The current cost estimate for construction of a new lock at Bonneville Dam is $191 million, based on updated values from the 1977 Feasibility Report and its Addendum dated January 1981.

Question   What percentage of the increase in barge tonnage over the next 25 years is attributable to grain; to sand and gravel, to other commodities?

Answer: Based on more current information, between 1990 and 2015 total tonnage is forecasted to increase by 11,107,000 short tons. Of this total, 38 percent is due to grain shipments, 36 percent is due to sand and gravel, 15 percent is due to wood chips, 6 percent is due to petroleum, and the remaining 5 percent is due to other commodities.

Question   What is the benefit-to-cost ratio at 8-3/8 percent?

Answer: The current benefit-to-cost ratio for the new lock is 1.25-to-1, based on updated values from the 1977 Feasibility Study, and the 1981 Addendum.

Question : Would construction of the new navigation lock at Bonneville be feasible without sand and gravel movements?

Answer: In order to accurately estimate the effect of eliminating sand and gravel, or any other commodity, from the analysis, a new delay/diversion analysis would have to be done at the new tonnage level. Transportation savings and system delays would be re-estimated based on the simulations at the new tonnage level.

Question What would the benefit-to-cost ratio be assuming no sand and gravel tonnage was forthcoming?

Answer: Unless the simulation is re-run, we cannot identify a specific B:C that we would consider defensible given the state-of-the-art.

Question : What is the most recent annual tonnage shipped through the lock?

Answer: In 1984, 9.7 million short tons were shipped through the lock.

Question What is the current estimate of capacity for the existing lock?

Answer: The "capacity" of the lock is 12.9 MST @ 95 percent utilization. The term "capacity" as used in reference to Bonneville should be thought of as an engineering concept rather than economic since in an economic sense it is delay that determines how much traffic the lock will pass not how much it can pass if it is used X percent of the time.

Q. To what degree have projections of inland waterway traffic growth changed from those contained in the NWS?

A. In general, the 1980 thru 1983 waterborne traffic has been lower than projected in the National Waterways Study (NWS). The decline in petroleum imports was recognized by NWS, and coal exports surged ahead of NWS projections in 1980, but coal was only slightly above the low projections by 1983. Export of farm products was particularly disappointing in 1981 thru 1983. Domestic shipments of farm products held close to projected levels. The events of the mid-to-late 1970's contributed to the overall depression in waterborne commerce, however, actual traffic rarely conforms to the smooth trends used to make projections. The decline in waterborne commerce seems to have stabilized in 1984-1985. The Corps outlook for growth in waterway traffic is now much closer to those trends reflected in NWS low growth scenarios. Great uncertainty about effective demands for export grain and coal, increased waterway user charges, merger activities and the depressed rate structure of the industry, all contribute to somewhat lower traffic expectations.

QUESTION: Recently, in response to earlier questions from the committee, you stated that the Office of Management and Budget (OMB) had raised "several questions" about the Corps analysis of the Oregon Inlet jetty project in North Carolina. Would you tell us specifically what OMB's concerns are, your response to those concerns, and the effect on the benefit-to-cost ratio of the project.

RESPONSE: OMB's concerns with the Corps economic analysis focused on three main areas: benefit estimates, particularly the use of different assumptions to develop a range of benefits rather than a single estimate and the validity of the benefits; baseline dredging costs, specifically the assumption that the dredging costs experienced in the last few years will continue into the future if the authorized improvements are not constructed; and the divergent opinions of the Corps and the Inman Group, the team retained by the National Park Service. Our response to each of these concerns is as follows:

1) Benefit Estimates: The report addressed the uncertainty in future project conditions by using different assumptions to develop a range of benefits rather than the usual single estimate. The high benefit estimates used assumptions which are well within the bounds of probable future conditions while the low benefit estimates used the most reasonable, conservative assumptions. The benefits most likely to result from the project are somewhere between the extremes. Annual project costs are less than either the low or high estimates of annual benefits.

2) Baseline Dredging Costs: The history of maintenance dredging clearly demonstrates the difficulties of maintaining a dredged channel through Oregon Inlet. In the period during which maintenance was performed by hopper dredges (1960-1972), the dredging record documents that depths at or greater than 14 feet only existed some 28 percent of the time, and a channel width of 400 feet was never attained. Similarly, the sidecast dredging operations (1973-1982) have been able to provide project depths of 14 feet or greater only 16 percent of the time, and have never realized the authorized bottom width of 400 feet. In an effort to provide project dimensions, maintenance dredging was intensified with use of a contract hopper dredge and a Corps sidecaster dredge in the fall of 1983 and again in 1984 with a total expenditure of about $4.5 million each year. This intensified dredging effort substantially improved entrance conditions. About 20 million pounds of fish are expected to be brought through the Inlet during the current fishing season compared with an average of about 17 million pounds in recent years before the contract hopper dredging effort was applied. The Corps economic analysis assumed that intensified dredging would continue without the proposed jetties and that this would result in about 20 million pounds of fish being brought through the Inlet each year.

3) Divergent Opinions on Environmental Impacts: It should be noted that the Inman Group did not perform any engineering analysis. Their evaluation was based on limited information and

exposure to the project plan. Since preparation of the Inman Group report, the Corps has completed additional comprehensive investigations and designs which incorporate all of the Group's sugestions found to be valid. The scientific/engineering effort expended in the design of jetties and the associated sand bypass system for Oregon Inlet is as extensive as for any project the Corps has ever planned. Since the Corps of Engineers has had more experience with coastal projects than any other agency and this project has been thoroughly reviewed by its experts, we feel confident with the design.

QUESTION: What is the benefit-to-cost ratio on the jetties if we use the FY 85 discount rate?

RESPONSE: The benefit-to-cost ratio of the Oregon Inlet Jetties project based on 1984 price levels and the FY 85 discount rate of 8.375 percent ranges from 1.11 for a low estimate of benefits to 1.8 for a high estimate of benefits.

QUESTION: In addition, would you please provide us with an up-to-date analysis on the sand bypass system you contemplate using, and your latest analysis of the floating breakwater. Please cite examples of successful and unsuccessful bypass systems used to keep sand from navigation channels and to prevent erosion. Why would it not be wise to test this approach at a location like the inlet at Ocean City, Maryland, where heavy erosion has occurred to the northern end of the Assateague Island National Seashore?

RESPONSE: The latest analysis of the sand bypassing system including the floating breakwater is attached.

MANTEO (SHALLOWBAG BAY) PROJECT
(OREGON INLET)

Analysis of Sand Bypassing System Including Floating Breakwater System

The primary sand bypassing system for the Oregon Inlet project consists of a conventional cutter-suction pipeline dredge that would operate over the accumulated sediments lying in the accretion fillets adjacent to the jetties with wave protection for the dredge provided by a transportable breakwater. Sand bypassing would normally be scheduled for some time during the low wave energy period that extends from May to August of each year. Accordingly, the transportable breakwater would not be deployed until the sand bypassing operation is to begin. Once the required amount of sediment has been bypassed, the transportable breakwater would be removed from its ocean mooring and stored in a protected area inside the inlet. The dredge plant, booster pumps, and pipeline assemblies are all standardized and do not require any special design effort. Therefore, the development and design of the primary sand bypassing system has concentrated on the transportable breakwater.

The transportable breakwater selected for Oregon Inlet is known as a sloping float breakwater (SFB). The SFB is a barge-like structure which, in its operational mode, is partially submerged with the shoreward end ballasted so as to be near to or resting on the sea floor. The other end of the structure protrudes above the water surface and faces in the direction of incoming waves. The SFB unit is secured in position by anchored mooring lines attached to its bow and forward port and starboard sides.

Each SFB unit measures 130 feet wide, 90 feet long, and 5.5 feet deep with the 130 foot dimension oriented essentially parallel to the crest of the incoming waves. In order to provide protection for the dredge over the entire area of the fillet to be excavated, between 6 and 8 SFB units would have to be deployed seaward of the borrow area. The individual SFB units would be moored in a staggered fashion to provide essentially complete protection across the entire length of the area to be excavated.

Design analysis ofthe SFB has included (1) two-dimensional functional model tests to determine mooring forces and wave attenuation characteristics, (2) two-dimensional structural model tests to measure internal stresses in the SFB units and bottom impact velocities of the submerged end, and (3) three-dimensional model tests to determine the feasibility of side connecting two of the SFB units to form a larger moored element and to evaluate the effect of mooring line failure on mooring loads in the remaining lines. The structural analysis and design of the individual SFB unit has been performed by private consulting engineers specializing in marine structure design and construction. The design of the mooring system has been provided by the U.S. Naval Civil Engineering Laboratory located in Port Hueneme, California, which is recognized world-wide for its expertise in mooring system design.

The basic design of the SFB units consists of a post-tensioned concrete structure having overall dimensions as given above. Each SFB unit will be individually moored since the three-dimensional tests indicated that forces in the side connectors would be too large to accommodate an economical design.

Sand bypassing requirements for Oregon Inlet will range from 500,000 to 600,000 cubic yards per year with the material being transferred from Bode Island on the north to Pea Island on the south. The relatively mild wave conditions that normally exist in the project area between May and August, coupled with the wave shadowing effect of the jetties for waves from the southeastern sector and the wave attenuation characteristics of the SFB, will allow the sand transfer to take place in 1 to 2 months.

When the sand bypassing operation is completed, a deposition basin or sediment trap will be created in the updrift fillet. This deposition basin will trap material moving toward the inlet during the interim period between sand bypassing operations. Subsequent sand bypassing operations will restore the deposition basin by removing the accumulated sediment and transporting it to the downdrift beach. On the downdrift side, the bypassed material will be placed along the shoreline to form an artificially widened beach. This artificially widened beach, termed a feeder beach, will serve as a source of sediment for the adjacent downdrift beaches. Once the material in the feeder beach has been depleted, a subsequent sand bypassing operation will again artificially widen the area to restore the feeder beach. Thus, the position of the shoreline in the feeder beach area will be continually fluctuating between its widened position and its normal position and would not be allowed to retrogress into the natural backshore area.

In addition to the primary sand bypassing system described above, a secondary or backup bypassing system has been added to provide greater flexibility in the timing of the bypassing operation. The secondary system consists of a conventional portable pipeline dredge which can be assembled on the subaerial (above water) portion of the accretion fillet and, therefore, operate in a wave-free environment. In order for the portable dredge to operate, a jet pump system would be used to initially execute a small lake in the fillet and provide water for dredge floatation and slurry mixture. This operation would create a small lake in the fillet in that the portable dredge would leave a protective berm between the excavated area and the ocean. Once the portable dredge is removed from the lake, the jet pump would be used to breach the protective berm and allow the lake to fill with littoral sediments.

The secondary sand bypassing system would be used during times in which abnormally high unidirectional littoral transport rates occur during a given year, making it desirable to perform an intermediate sand bypassing operation between the regularly scheduled operations involving the primary system.

The secondary system cannot replace the primary system, however, since it is not capable of removing subaqueous sediment accumulations.

The unique feature of the primary sand bypassing system proposed for Oregon Inlet is the use of the transportable breakwater to protect the dredge. However, the concept of the system is similar to the highly successful sand bypassing operation carried out at Channel Islands Harbor, California. At Channel Islands Harbor, a fixed offshore breakwater is situated updrift of the harbor entrance. The offshore breakwater prevents waves from reaching the beach in its lee and, as a result, nearly all of the littoral sediment moving toward the harbor is impounded behind the breakwater. The impounded material is periodically removed by a conventional pipeline dredge and placed in a feeder beach located downdrift of the harbor. Sand bypassing at this location occurs approximately every 2 years with an average of 2,310,000 cubic yards of sand being transferred in each operation. This bypassing operation has completely eliminated the severe erosion on the downdrift beaches and prevents material from accumulating in the entrance channel to the harbor.

A similar sand bypassing system is in operation at Santa Barbara, California; however, in this instance, the material is transported along a shore connected offshore breakwater and deposits across the harbor entrance in the form of a sand spit. The end of the sand spit is removed by a pipeline dredge and placed in a feeder beach downdrift. Again, this operation has been successful in reducing downdrift beach erosion.

Other examples of sand bypassing systems include: (1) weir jetties such as the ones at Masonboro Inlet, N.C., Ponce de Leon, Fl., East Pass, Fl., and Perdido Pass, Al.; (2) interior sediment traps are used at Carolina Beach, N.C., Jupiter Inlet, Fl., and Sebastian Inlet, Fl.; and (3) fixed or stationary plants attached to the updrift jetty like the ones at Lake Worth and South Lake Worth Inlets in Florida.

In general, these other types of sand bypassing systems have not been as successful as the offshore breakwater systems since they rely on waves and other natural forces to transport material to predetermined locations. On the other hand, the transportal breakwater system is completely flexible in that it can be positioned in the location of maximum sediment accumulation and can transfer material either north or south from either side of the inlet. Thus, given this flexibility, the shorelines of both Bodie Island and Pea Island can be maintained in such a manner so as to completely mitigate any jetty induced beach erosion as well as eliminate or substantially reduce the high rates of natural erosion that are presently occurring on both islands.

The overall plan for developing the SFB includes field tests of several prototype units prior to the preparation of the final design. Ideally, this field test should be conducted near Oregon Inlet. However, if another location, such as Ocean City, Maryland, has a comparable wave climate, there is no reason why the field tests could not be conducted at that location. In that regard, the SFB has been justified solely on the basis that it would be used exclusively at Oregon Inlet. However, since the Oregon Inlet sand bypassing operation would only require 1 to 2 months each year, the possibility of employing the units at other locations should be encouraged.

QUESTION:	As soon as possible, would you please provide us with up-to-date Federal cost figures on each of the projects contained in Titles V, VII, and IX of S. 366, assuming cost figures as determined by the various cost-sharing provisions in S. 366.
RESPONSE:	A list providing the up-to-date Federal cost figures on each of the projects contained in Titles V, VII, and IX of S. 366 is attached.

TITLE V S 366

PROJECTS	TOTAL COST	COST SHARING FED	NON-FED
Gallipolis	256000	256000	0
White River	27000	20900	6100
Bonneville	191020	191020	0
A I W W	8800	8800	0
Olcott Hbr	12445	6230	6215
Oliver Lock Replacement	147211	147211	0
Monongahela Riv, L & D 7	95100	95100	0
Monongahela Riv, L & D 8	68000	68000	0
Greenville Hbr	42600	30300	12300
Phillips County, Helena Hbr	56403	37703	18700
Lake Ponchartrain, North Shore	1264	632	632
L & D 26, 2nd Lock	220000	220000	0
Memphis Hbr	106105	40505	65600
St. Louis Hbr	30340	11270	19070
Vicksburg Hbr	77700	60737	16963
TOTALS	1339988	1194408	145580

TITLE VII S 366

PROJECTS	TOTAL COST	COST SHARING	
		FED	NON-FED
Fountain Creek	8400	6185	2215
Lake Wichita	27300	14775	12525
Town Brook, Quincy	26500	19875	6625
Eight Mile Creek	14950	11188	3762
Fourche Bayou	32375	20809	11566
Cache Creek	30700	20265	10435
Redbank & Fancher	84100	60690	23410
Santa Ana	781000	577330	203670
Oates Creek	13472	8285	5187
Agana River	9530	5774	3756
Big Wood	4420	3315	1105
Rock River	27720	20790	6930
Des Moines	15340	11350	3990
Perry Creek	44200	20232	23968
Redwood River @ Marshall	4283	3038	1245
Root River	8195	6145	2050
South Fork Zumbro	60470	45215	15255
Horn Lake Creek	3400	2530	870
Robinson's Branch Rahway	25907	19430	6477
Rahway & Van Winkles Br	17500	12525	4975
Greenbrook Subbasin	101832	70627	31205
Puerco River	4160	3120	1040
Cazenovia Creek	3025	2269	756
Mamaroneck & Sheldrake	63070	47303	15767
Hocking River @ Logan	7760	5772	1988
Hocking River @ Nelsonville	8020	5943	2077
Miami, Lit. Miami, Holes Cr	8910	5805	3105
Muskingum R. @ Mansfield	4256	2991	1265
Mingo Creek	133000	93150	39850
Harrisburg	132900	99675	33225
Lock Haven	79225	59419	19806
Saw Mill Run	7853	5890	1963
Buffalo Bayou	90670	67655	23015
James River Basin	101200	75900	25300
Chehalis	21940	16455	5485
Yakima-Union Gap	8789	6592	2197
Metro Denver	10563	7922	2641
Indian River County	4934	2431	2503
Sacramento Bank Protection	1415	892	523
Davenport	497	355	142
Smithville Lake	7870	5120	2750
North Branch Chicago River	14390	10790	3600
Miss Ri, Green Bay L&DD No 2	6770	5080	1690
Miss River @ St. Paul	8454	6340	2114
Maumee Bay St. Park	15800	6100	9700
Indiana Shoreline	7920	7920	0
Little Calumet	83460	59500	23960
Casino Beach, Illinois Shore	5370	2685	2685
Tonawanda Creek	32000	23575	8425
Park River, Grafton	18790	14090	4700
Presque Isle Peninsula	28100	14050	14050
South Quincy Drain. & Lev Dist	11688	8770	2918

Atlantic Coast MD (Ocean City)	35200		23998	11202
Atlantic Coast NYC (Rockaway)	7910		3955	3955
Cape May Inlet to Lower Twp	17300		17300	0
Cape May Point	6600		4760	1840
Willoughby Spit, Norfolk	4230		2583	1647
Wyoming Valley	234700		176025	58675
Big River Reservoir	84700		6178	78522
Charlotte County	2255		1071	1184
Dade County, No of Haulover Be	15605		7490	8115
Folly Beach	3335		1640	1695
Jekyll Island	10450		5225	5225
Metro Atlanta Area Wat Res	26445		0	26445
Monroe County	3142		1561	1581
Panama City Beaches	41731		19104	22627
Richard B. Russell Dam & Lake	20160		20160	0
St. John's County	9679		6446	3233
Sowashee Creek	17500		10517	6983
Threemile Creek	19070		8753	10317
Village Creek	28100		20991	7109
Wrightsville Beach	0		0	0
Cabin Creek	43000		29360	13640
Miami River, Fairfield	14360		9353	5007
Scioto Riv, North Chillicothe	10740		8026	2714
Atchafalaya Basin Floodway Sys	245398		218975	26423
Bushley Bayou	44700		32102	12598
Helena & Vicinity	13700		10275	3425
Louisiana St Pen Levee	22646		16985	5661
Maline Creek	61900		37939	23961
Nonconnah Creek	25900		17146	8754
Obion Creek	4900		3675	1225
St Johns Bayou & New Madrid	108900		63358	45542
Yazoo River Mitigation	4993		4993	0
Arkansas Riv & Tribs, L & D 13	113000		0	113000
Arkansas Riv & Tribs, L & D 9	103000		0	103000
Ark Riv & Tr, Toad Suck Ferry	59700		0	59700
Boggy Creek, Austin	21300		13535	7765
Cooper Lake & Channels Mit	14743		8112	6631
Fry Creeks, Tulsa	13000		9920	3080
Halstead	7100		5325	1775
Lower Rio Grande Basin	430364		251275	179089
Mid Rio G, Bernalillo to Belen	43900		32925	10975
Murray Lock & Dam	98600		0	98600
Parker Lake, Muddy Boggy Creek	43000		3497	39503
Sims Bayou	123979		91907	32072
Upper Little Ark Riv Watershed	12200		9150	3050
W. D. Mayo L & D	119300		0	119300
Brush Creek	15770		11828	3942
Downstr Meas at H S Truman Dam	2100		0	2100
Gregory County Pumped Storage	1380000		0	1380000
Missouri River Mitigation	50500		33582	16918
Bethel Bank Stabilization	16110		12082	4028
Blue River Lake	30101		0	30101
Centralia, Chahalis Ri & Tribs	19500		14625	4875
McNary L & D, 2nd Powerhouse	649000		500	648500
Scammon Bay, Small Hydro	1600		0	1600
Southcentral Railbelt, Valdez	44000		0	44000

Alenaio Stream	7860		5157	2703
Lava Flow Control	5470		4102	1368
Little Colorado Ri at Holbrook	11700		8745	2955
TOTALS	6900539		2940143	3960396

TITLE IX S 366

PROJECTS	TOTAL COST	COST SHARING FED	COST SHARING NON-FED
Savannah Hbr	19175	12718	6457
Kodiak Hbr	14641	10249	4392
Sacramento Deepwater Channel	125300	78850	46450
New Haven Hbr	25900	17360	8540
Oakland Outer Hbr	42400	28130	14270
Grand Haven Hbr	17200	11900	5300
Gulfport Hbr	78968	55149	23819
Wilmington Hbr	9718	8075	1643
Gowanus	3440	1887	1553
San Juan Hbr	86334	58785	27549
Charleston Hbr	84032	57578	26454
Brazos Island Hbr	31417	21992	9425
Blair & Sitcum WW	35816	24050	11766
Norfolk Hbr	538000	265040	272960
Monroe Hbr	139400	50200	89200
Jacksonville Hbr	6575	6575	0
Manatee Hbr	16115	12461	3654
Duluth-Superior Hbr	12200	6110	6090
Barnegat Inlet	36435	21310	15125
Hampton Roads (Drift Removal)	6870	2280	4590
Kill Van Kull	248100	151340	96760
Portsmouth Hbr & Piscataqua Ri	21700	15200	6500
Crown Bay Channel	8124	3442	4682
Mobile Hbr	468933	263207	205726
Tampa Hbr, East Bay Channel	0	0	0
Mississippi River Ship Channel	456000	238350	217650
Grays Hbr	93187	65231	27956
St. Paul Island	24756	9139	15617
Richmond Hbr	43800	24710	19090
TOTALS	2694536	1521318	1173218

Q. Would you please provide us with an estimate of the variations, on a month-by-month basis, of barge rates for agricultural shipments on both the Columbia and Mississippi Rivers during the past year. It would be particularly helpful to have this information on a per-bushel basis for a typical wheat movement on each rivers, as well as for a typical corn movement on the Mississippi.

A. The barge transportation cost to ship a ton of corn is the same as a ton of wheat; the only difference is in the ton-to-bushel ratio of the two products. Based on a relationship of 35.7 bushels of corn per ton, and 33.3 bushels of wheat per ton, the following presents the 1984 monthly barge rate from St. Louis, Mo. to New Orleans La. for each product.

Month	Corn	Wheat
January	12.3¢/bu	13.2¢/bu
February	12.9	13.8
March	17.9	19.2
April	14.6	15.6
May	10.6	11.4
June	11.8	12.6
July	10.6	11.4
August	12.3	13.2
September	17.9	19.2
October	19.0	20.4
November	15.7	16.8
December	11.8	12.6

Our sources tell us that the barge rate per ton for corn and wheat on the Columbia River, from Lewiston, Idaho to Portland, Oregon, has remained the same since February 6, 1981. That rate for wheat is 15.5 cents per bushel, and 14.4 for corn.

Q. What percentage of wheat grown in each of the States listed below moves at some point via barge to all markets; what percentage of the wheat only moving to an export market moves at some point via barge: The States: Idaho, Kansas, Minnesota, Montana, North Dakota, and South Dakota.

A. The following information is from a study of 1977 "Wheat Movements in the United States" published in January 1981. Tracing commodity movements at this level of detail is very expensive, and to our knowledge this data is the most current available. The following table presents a composite of the information you request, from this study.

	Rail	Truck	Barge	Farm Truck	% total by Barge
	Intrastate Movements of Wheat				
Idaho	130	13,557	0	0	0.00%
Kansas	185,185	39,736	185	0	0.08%
Minnesota	67,277	57,339	0	506	0.00%
Montana	15,294	2,109	0	0	0.00%
North Dakota	7,444	0	0	0	0.00%
South Dakota	0	2	0	0	0.00%
	Interstate Shipments of Wheat				
Idaho	14,654	13,188	19,685	0	41.4%
Kansas	213,012	15,551	13,011	0	5.4%
Minnesota	37,310	1	111,973	0	75.0%
ontana	56,533	20,258	0	0	0.0%
orth Dakota	156,604	55,664	0	0	0.0%
South Dakota	25,844	17,165	0	0	0.0%
	Interstate Receipts of Wheat				
Idaho	136	9,180	0	0	0.0%
Kansas	23,871	4,197	0	0	0.0%
Minnesota	165,740	68,399	0	718	0.0%
Montana	0	34	0	0	0.0%
North Dakota	0	0	0	0	0.0%
South Dakota	0	117	0	0	0.0%
	Movements to Points of Export of Wheat				
Idaho	10,173	8,870	19,685		50.8%
Kansas	116,890	0	0		0.0%
Minnesota	20,600	16,376	46,727		55.8%
Montana	39,987	3,290	0		0.0%
North Dakota	105,485	29,454	0		0.0%
South Dakota	6,435	4,482	0		0.0%
All States	616,803	134,659	313,191		29.4%

As would be expected, very little wheat moves within a state by barge. Similarly, interstate receipts of grain do not move by barge, since grain is primarily an export commodity from these states. For the revelant categories, barge accounts for approximately 15 percent of the total wheat shipped from these six states. As for export wheat, nearly 30 percent of all wheat is shipped by barge to its point of export.

QUESTION: I understand that one alternative to dredging a deeper channel at a location such as Norfolk, VA, might be to use a topping-off system, one that allows ships after they leave port to be loaded more fully in deeper water, such as Delaware Bay, the Atlantic Coast, or the Bay of Fundy. What is the average cost per ton for topping off a supercollier? How does that compare with the cost per ton for amortizing a 55-foot dredging project at Norfolk?

RESPONSE: The latest estimates for a topping-off operation at Norfolk, VA, were made in August 1983. At that time it was estimated that two barges could be used for topping-off in the Delaware Bay. To top-off the final 56,000 tons onto a 156,000 load capacity vessel, it would cost about $196,000, or $3.50 per ton. To this would be added an additional 72 hours of ship time (24 hour travel time to Delaware Bay plus 48 hours for loading) at a cost of $66,080. This would equate to an incremental cost of $4.68 per ton. This compares with an actual toping-off operation in the Gulf of Mexico at a charge of about $5.00 a ton.

To compare the incremental topping-off cost of $262,080 with the proposed 55-foot channel deepening at Norfolk, VA, the $262,000 would be divided by the total vessel tonnage of 156,000 tons, or $1.68. The annual amortized cost per ton for the 55-foot deepening is $0.94, assuming an average annual tonnage of 50 million tons shipped through the improved channel, a first cost of $461,600,000 for deepening the channel and discount rate of 8-3/8 percent.

QUESTION: As I understand it, the cost to the Corps for hopper dredge work at Oregon Inlet, North Carolina, during 1983 was $2,428,749, or about $3.95 for each of 614,000 cubic yards. A year later, the cost rose to $3,109,571, or about $6.47 for each of the 480,739 cubic yards dredged. Please explain the sharp increase in cost. What changes did you make in your specifications, or bidding procedures, that might explain the sharp increase?

RESPONSE: The Corps informs me that in 1983 458,056 cubic yards were removed from Oregon Inlet by the small class contract hopper dredge for a total cost of $2,428,749 or $5.30 per cubic yard of material hauled. The 614,000 cubic yards to which you referred was calculated from hydrographic surveys and was not the basis for measurement of yardage for payment since it includes material removed beyond the authorized dimensions. The 1983 contract was a rental contract which provided for the payment of an hourly rate while the dredge was operational and 80 percent of that rate while the dredge was standing by due to adverse weather. In FY 84, the Corps used a different contracting mode in which payment was based on yardage measured in the hopper. Under this procedure the risk for downtime due to weather shifted to the contractor. This accounted for his bid price of $6.47 per cubic yard. During the 1984 contract, the contractor removed 480,739 cubic yards at a total cost of $3,109,571. On the basis of comparing the two different contracting modes, the Wilmington District has concluded that the rental type procedure is the most effective and they intend to use this procedure in the future.

Question: Would you please submit to the Committee an analysis of the differences between the authorization on the Santa Ana project in H.R. 6 and the authorization for that project in S. 366 and S. 534, together with a cost analysis of the differences. In addition, please discuss the views of the Administration on the H.R. 6 version.

Response: a) Both H.R. 6 and S. 366 would authorize the project in accordance with the report of the Chief of Engineers provided, that construction is restricted to the following elements of the project: improvements at Prado Dam which limit the reservoir taking line to no greater than elevation 566 feet; Santa Ana River Channel improvements in Orange County; improvements along Santiago Creek; improvements of the Oak Street Drain; and improvement of the Mill Creek Levees; features for mitigation of project effects and preservation of endangered species; and recreation features identified in the Chief of Engineers report for these project elements. This construction restriction would exclude Mentone Dam, although the COE Report and estimated cost include it.

b) S. 534 would exclude Mentone Dam from the authorization and the estimated cost. In addition, it would reduce the level of protection from SPF to 100-years on Oak Street Drain.

c) Both H.R. 6 and S. 366 contain an estimated cost that reflects the total All River Plan as recommended in the COE Report. The S. 534 cost reflects the deletion of Mentone Dam and a reduction in level of protection on Oak Street Drain. At October 1984 price levels, the cost would be as follows:

H.R. 6, S. 366	$1.35 billion
S. 534	$781,400,000

d) H.R. 6 would authorize Mentone Dam, an element of the project which is no longer supported by local interests and could therefore, not be constructed, even if authorized. Construction of the Oak Street Drain to provide Standard Project Flood protection is not economically justified or justified by non-economic factors. Construction that would provide 100-year protection would expand the developable land in Riverside County to provide compensation for land taken by enlargement of the Prado Reservoir.

QUESTION: The Administration's bills, S. 534 and S. 967, do not include several types of projects that are included in S. 366. Your bills do not include hydropower projects, or beach erosion projects, or inland and recreational harbor projects. Please explain why the Administration fails to support these types of projects which carry a positive benefit-to-cost ratio?

RESPONSE: In regard to hydropower, most hydropower development projects can be planned, constructed, and operated by non-Federal interests under the Federal Energy Regulatory Commission (FERC) license procedures. Only in cases where non-Federal development is impractical because of physical, legal, competing use, institutional, environmental or economic reasons, would we recommend that hydropower be developed as a Federal project with non-Federal financing. At the time our legislation was submitted, Executive Branch review had not been completed for any projects that could be recommended.

In regard to beach erosion and inland and recreational harbor projects, most such projects are designed primarily to enhance recreational opportunities. Projects proposed primarily for the benefit of recreation are inconsistent with this Administration's budget priorities and are not in agreement with its policy to rely on the private sector. I might add, however, that the Indian River County, Florida, project, a beach erosion control project, is included in our legislative proposal, since that project, unlike most of the other beach erosion control projects, is justified on the basis of storm damage reduction benefits, not recreation.

QUESTION: Regarding the Redbank - Fancher project near Fresno, California, is it accurate that the existing Dry Creek reservoir has never been more than 37 percent filled?

RESPONSE: Yes. This was based on the 1969 storm.

QUESTION: What size storm event would be required to fill the reservoir that is behind the existing Dry Creek Dam? If Dry Creek Dam were raised, as proposed by the Corps, what size storm event would be required to fill the reservoir?

RESPONSE: Based on current hydrology, the existing Big Dry Creek Reservoir provides about 60-year level of protection. The proposed raising of Dry Creek would provide about 200-300 year level of protection.

QUESTION: What will be the effect of increasing the height of Dry Creek Dam on nearby citrus groves?

RESPONSE: The Fresno Metropolitan Flood Control District, the local sponsor of the proposed Redbank-Fancher project, has recently commissioned a preliminary air modeling and temperature variation study of the Dry Creek Dam area as part of an environmental impact report addressing a proposed expansion of the boundaries of the flood control district to reflect, in part, the proposed Redbank-Fancher project. This preliminary study indicated that raising the height of the Dry Creek Dam would effect the temperature of three nearby citrus grove areas. The largest of the three areas consisting of several hundred acres would be affected beneficially, i.e., incidence of frost would be reduced, and the other two areas would experience a maximum temperature decrease of four to five degree (Fahrenheit) on approximately 80 out of a total of 170 acres. To alleviate any adverse impact on the two citrus grove areas, the Fresno Metropolitan Flood Control District has recently executed a contract with a local governmental agency to undertake a microclimatological study of these areas and to implement appropriate frost control devices, if warranted.

QUESTION: In regard to another subject, I recognize that many people argue that Title V of S. 366, as it was introduced, could slow down construction, or require higher taxes. Could you provide us with an up-to-date analysis on the income to the Inland Waterways Trust Fund, as well as expected spend-out rates assuming the following seven projects were authorized by the close of calendar 1985: Bonneville, Gallapolis, Winfield, a second chamber at Lock and Dam 26, Oliver, and two new locks on the Monongahela River?

RESPONSE: A table providing the requested information is attached.

Projected Inland Navigation Project Expenditures [1]
($Millions - October 1984 Price Levels)

Project	Cost Estimate Excluding Inflation	Cost Estimate With Inflation	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96	Balance to Complete
Gallipolis L&D	316.0	370.0	4.5 L	5.0 C	10.0	35.0	75.0	80.0	65.0	45.0	30.0	20.5	0	0
W.B. Oliver L&D	116.0	185.0	0	1.3	3.7 L	5.0 C	23.0	35.0	40.0	30.0	20.0	13.0	10.0	4.0
Winfield L&D	200.0	233.0	0	0	0	0	5.0	6.0 L	15.0 C	25.0	50.0	49.0	50.0	33.0
Monongahela L-7	98.0	129.0	0	0	2.0	7.0 L	25.0 C	35.0	45.0	15.0	0	0	0	0
Monongahela L-8	70.0	95.0	0	0	0	2.0	8.0	25.0 L	35.0	20.0	5.0	0	0	0
L&D #26 (2nd Lock)	220.0	280.0 [2]	0	1.0	3.0 C	3.0	4.0	38.0	42.0	47.0	52.0	43.0	26.0	21.0
Bonneville L	191.0	239.0	0	5.7	8.3 C	17.0	29.0	40.0	45.0	40.0	26.0	16.0	12.0	0
Subtotal	1,211.0	1,531.0	4.5	13.0	27.0	69.0	169.0	259.0	287.0	222.0	183.0	141.5	98.0	58.0
Trust Fund (100% Funding)														
Balance at start of year			197.0	269.0	336.0	388.9	396.8	301.5	108.1	-121.5	-285.5	-409.5	-491.0	
Projected Revenues			+ 51.0	+ 52.0	+ 53.0	+ 54.0	+ 55.0	+ 56.0	+ 57.0	+ 58.0	+ 59.0	+ 60.0	+ 61.0	
Expenditures			- 4.5	- 13.0	- 27.0	- 69.0	-169.0	-259.0	-287.0	-222.0	-183.0	-141.0	- 98.0	
Interest			+ 25.5	+ 28.0	+ 26.9	+ 22.9	+ 18.7	+ 10.0	-	-	-	-	-	
Balance at End of Year			269.0	336.0	388.9	396.8	301.5	108.5	-121.5	-285.5	-409.5	-491.0	-528.0	

L = Land Acquisition
C = Construction

[1] Schedule reflects an avoidance of peak years for total new inland waterway construction in excess of $300 million. Individual projects could be accomplished more expeditiously.

[2] This estimate assumes an interface with ongoing construction of the replacement lock and dam.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JAN 2 1985

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter is in response to your October 29, 1984, request for information on the Corps of Engineers projects included in S. 1739 and H.R. 3678. At your request, I have enclosed for both bills: (1) projects approved by the Administration and forwarded to Congress for authorization; (2) projects not reviewed by OMB; (3) projects specifically disapproved by the Administration, and (4) projects currently under review at OMB.

Those projects not reviewed by OMB generally have not completed the Corps of Engineers planning process and thus have not been submitted to OMB. We do not have an estimate of when these projects will complete the Corps planning process and, therefore, cannot estimate when the Administration will reach a decision.

I hope this information meets your needs and look forward to working with you during the coming session.

Sincerely,

Frederick S. Upton
Deputy Assistant Director for
Legislative Affairs

Enclosures

October 29, 1984

Mr. Robert K. Dawson
Acting Assistant Secretary
of the Army
Office Of The Assistant Secretary
Washington, D.C. 20310-0103

Dear Mr. Secretary:

As soon as practical, but at least by the end of this calendar year, would you please provide me with information on the costs, under current law, that would be incurred by non-Federal interests for providing lands, easements, and rights of way, as a percentage of total project costs, for those Corps-reviewed projects that were included in S. 1739, as well as H.R. 3678.

Specifically, would you provide these estimates for each flood control project listed in the two bills, together with each harbor navigation project in the two bills.

Would you also provide me with an up-to-date breakdown on the backlog of authorized Corps construction work---the number of projects under way, as well as those not yet initiated, together with the cost of complete both categories.

Your cooperation and assistance is most appreciated.

Sincerely yours,

Robert T. Stafford
Chairman

RTS/hbd

S. 1739 Projects Supported by the Administration

	Project Name	State
1	AGANA RIVER	GU
2	BLAIR & SITCUM, TACOMA HARBOR	WA
3	BONNEVILLE LOCK AND DAM	OR, WA
4	BRAZOS ISLAND HARBOR, BROWNSVILLE	TX
5	BUFFALO BAYOU & TRIBUTARIES	TX
6	CACHE CREEK BASIN	CA
7	CAZENOVIA CREEK, BUFFALO	NY
8	CHARLESTON HARBOR	SC
9	CHEHALIS RIVER	WA
10	CITY WATERWAY, TAKOMA HARBOR	WA
11	DAVENPORT, NAHANT MARSH	IA
12	DES MOINES RIVER BASIN	MN, IA
13	EIGHT MILE CREEK	AR
14	FOUNTAIN CREEK	CO
15	FOURCHE BAYOU BASIN	AR
16	GOWANUS CREEK	NY
17	GRAND HAVEN HARBOR	MI
18	GULFPORT HARBOR	MS
19	HARRISBURG	PA
20	HOCKING RIVER AT NELSONVILLE	OH
21	HOCKING RIVER AT LOGAN	OH
22	HORN LAKE CREEK	TN, MS
23	JACKSONVILLE HARBOR	FL
24	JAMES RIVER BASIN	VA
25	KODIAK HARBOR	AK
26	LAKE WICHITA, HOLLIDAY CREEK	TX
27	LITTLE WOOD RIVER	ID
28	LOCK HAVEN	PA
29	MAMARONECK, SHELDRAKE, & BYRAM RIVERS	NY, CT
30	MANATEE HARBOR	FL
31	METRO DENVER, SOUTH PLATTE	CO
32	MIAMI RIVER, LITTLE MIAMI RIVER	OH
33	MINGO CREEK	OK
34	MURRAY LOCK AND DAM	AR
35	MUSKINGUM RIVER - MANSFIELD	OH
36	NEW HAVEN HARBOR	CT
37	NORFOLK HARBOR	VA
38	OAKLAND OUTER HARBOR	CA
39	OATES CREEK	GA
40	PERRY CREEK	IA
41	PUERCO RIVER & TRIBUTARIES - GALLUP	NM
42	RAHWAY RIVER - ROBINSON'S BRANCH	NJ
43	RAHWAY RIVER & VAN WINCKLES BROOK	NJ
44	RARITAN RIVER - GREEN BROOK	NJ
45	REDBANK & FANCHER CREEK	CA
46	REDWOOD RIVER	MN
47	RICHARD B RUSSELL	GA, SC
48	ROCK RIVER	IL
49	ROOT RIVER BASIN	MN
50	SACRAMENTO RIVER BANK, FISH & WILDLIFE	CA
51	SACRAMENTO SHIP CHANNEL	CA

S. 1739 Projects Supported by the Administration

	Project Name	State
52	SAN JUAN HARBOR	PR
53	SANTA ANA RIVER, SANTIAGO CREEK	CA
54	SAVANNAH HARBOR	GA
55	SAW MILL RUN	PA
56	SOUTH-CENTRAL RAILBELT	AK
57	TRIMBLE WILDLIFE AREA, SMITHVILLE	MO
58	W.D. MAYO LOCK AND DAM 14	OK
59	WHITE RIVER NAVIGATION, BATESVILLE	AR
60	WILMINGTON HARBOR-CAPE FEAR	NC
61	YAKIMA-UNION GAP	WA
62	ZUMBRO RIVER, SOUTH FORK	MN

S. 1739 Projects Not Reviewed by OMB

		Project Name	State
1		ABIQUIU DAM	NM
2		ACEQUIA SYSTEMS	NM
3		ALENAIO STREAM	HI
4		ARKANSAS - RED RIVER BASIN	OK,TX
5	*	ARKANSAS RIVER, LOCK AND DAM 13	AR
6	*	ARKANSAS RIVER, LOCK AND DAM 9	AR
7	*	ARKANSAS RIVER, TOAD SUCK FERRY	AR
8		ATCHAFALAYA BASIN	LA
9		BARNEGAT INLET	NJ
10		BETHEL BANK STABILIZATION	AK
11		BIG RIVER RESERVOIR	RI
12		BLUE RIVER POWERHOUSE	OR
13		BOGGY CREEK AT AUSTIN	TX
14		BRUSH CREEK AND TRIBUTARIES	KS,MO
15	*	BUSHLEY BAYOU	LA
16		CAPE MAY INLET TO LONG POINT	NJ
17		CAPE MAY POINT	NJ
18		CASINO BEACH	IL
19		CENTRALIA	WA
20		COOPER LAKE & CHANNELS	TX
21		DULUTH-SUPERIOR	MN,WI
22		FAIRFIELD, MIAMI RIVER	OH
23		FORT TOULOUSE	AL
24		FRY CREEKS	OK
25	*	GALLIPOLIS LOCK AND DAM	OH,WV
26		GORTON'S POND	RI
27		GRAYS HARBOR	WA
28		GREGORY COUNTY HYDRO	SD
29		HALSTEAD	KS
30		HAMPTON ROADS DEBRIS REMOVAL	VA
31		HARDWICK	VT
32		HAVRE WEIR	MT
33		HELENA AND VICINITY	AR
34		ILLINOIS & MISSISSIPPI CANAL	IL
35		INDIAN RIVER INLET	DE
36		JAMES RIVER	SD
37		KILL VAN KULL	NY,NJ
38		LAKE HERMAN, LAKE COUNTY	SD
39		LAKE WORTH	TX
40		LITTLE CALUMET RIVER	IN
41		LITTLE COLORADO RIVER, HOLBROOK	AZ
42		LOCK & DAM 26, 2nd LOCK	IL,MO
43		LOCKS & DAMS 7 & 8	PA
44		LOWER RIO GRANDE	TX
45		MALINE CREEK	MO
46	*	MAUMEE BAY, STATE PARK	OH
47		MCNARY LOCK & DAM	WA,OR
48	*	METRO ATLANTA AREA	GA
49		MIDDLE RIO GRANDE	NM
50		MISSISSIPPI RIVER, GULF TO BATON ROUGE	LA
51		MISSISSIPPI RIVER - ST. PAUL	MN

* Projects under review by OMB

S. 1739 Projects Not Reviewed by OMB

		Project Name	State
52		MISSOURI RIVER F&WL MITIGATION	MO,KS
53		MOBILE HARBOR	AL
54		MONROE COUNTY	FL
55	*	MONROE HARBOR	MI
56		MOUNDVILLE	AL
57		NEW YORK STATE BARGE CANAL	NY
58		NONCONNAH CREEK	TN,MS
59		NONCONNAH CREEK - SCS	TN,MS
60		NORTH BRANCH CHICAGO RIVER	IL
61		PARK RIVER - GRAFTON	ND
62		PARKER LAKE, MUDDY BOGGY CREEK	OK
63		PEARSON-SKUBITZ BIG HILL LAKE	KS
64		PORTSMOUTH HARBOR. - PISC. RIVER	NH,ME
65	*	QUINCY COASTAL STREAMS, TOWNBROOK	MA
66		RICHMOND HARBOR	CA
67		SCIOTO RIVER, NORTH CHILICOTHE	OH
68		SIMS BAYOU, BUFFALO BAYOU	TX
69		SOUTH QUINCY DRAINAGE	IL
70		SOWASHEE CREEK, MEREDIAN	MS
71		ST. JOHN'S BAYOU	MO
72		ST. LOUIS HARBOR	MO,IL
73		ST. PAUL ISLAND	AK
74		TANGIER ISLAND	VA
75		THREEMILE CREEK	AL
76		TONAWANDA CREEK	NY
77		TRUMAN DAM & RESERVOIR	MO
78		UPPER LITTLE ARKANSAS RIVER	KS
79		WEST KENTUCKY TRIBUTARIES, OBION CREEK	KY
80		WATERBURY	VT
81		WILLOUGHBY SPIT	VA
82		WRIGHTSVILLE BEACH	NC
83		WYOMING VALLEY	PA
84		YAZOO BACKWATER AREA	MS

S. 1739 Projects Opposed by the Administration

	Project Name	State
1	ATLANTIC COAST OF MARYLAND-OCEAN CITY	MD
2	ATLANTIC INTERCOASTAL WATERWAY BRIDGES	NC
3	CABIN CREEK	WV
4	CHARLOTTE COUNTY	FL
5	CONEY ISLAND, ROCKAWAY INLET	NY
6	CROWN BAY, ST. THOMAS	VI
7	DADE COUNTY	FL
8	FOLLY BEACH	SC
9	GREEN BAY LEVEE, #2	IA
10	GREENVILLE HARBOR	MS
11	HELENA HARBOR, PHILLIPS COUNTY	AR
12	INDIAN RIVER COUNTY	FL
13	INDIANA SHORELINE	IN
14	JEKYLL ISLAND	GA
15	LAKE PONTCHARTRAIN	LA
16	LAVA FLOW CONTROL	HI
17	LOUISIANA STATE PENITENTIARY	LA
18	MEMPHIS HARBOR	TN
19	OLCOTT HARBOR	NY
20	PANAMA CITY BEACH	FL
21	PRESQUE ISLE PENINSULA, ERIE	PA
22	SCAMMON BAY	AK
23	ST. JOHN'S COUNTY	FL
24	TAMPA HARBOR O & M	FL
25	VICKSBURG HARBOR	MS
26	VILLAGE CREEK	AL

H.R. 3678 Projects Supported by the Administration

	Project Name	State
1	AGANA RIVER	GU
2	BLAIR & SITCUM, TACOMA HARBOR	WA
3	BONNEVILLE LOCK AND DAM	OR,WA
4	BRAZOS ISLAND HARBOR, BROWNSVILLE	TX
5	BUFFALO BAYOU & TRIBUTARIES	TX
6	CACHE CREEK BASIN	CA
7	CAZENOVIA CREEK, BUFFALO	NY
8	CHARLESTON HARBOR	SC
9	CHEHALIS RIVER	WA
10	CITY WATERWAY, TAKOMA HARBOR	WA
11	DAVENPORT, NAHANT MARSH	IA
12	DES MOINES RIVER BASIN	MN,IA
13	EIGHT MILE CREEK	AR
14	FISHERMAN'S WHARF	CA
15	FOUNTAIN CREEK	CO
16	FOURCHE BAYOU BASIN	AR
17	GOWANUS CREEK	NY
18	GRAND HAVEN HARBOR	MI
19	GULFPORT HARBOR	MS
20	HARRISBURG	PA
21	HOCKING RIVER AT NELSONVILLE	OH
22	HOCKING RIVER AT LOGAN	OH
23	HORN LAKE CREEK	TN,MS
24	JACKSONVILLE HARBOR	FL
25	JAMES RIVER BASIN	VA
26	KODIAK HARBOR	AK
27	LAKE WICHITA, HOLLIDAY CREEK	TX
28	LITTLE WOOD RIVER	ID
29	LOCK HAVEN	PA
30	MAMARONECK AND SHELDRAKE RIVERS	NY,CT
31	MANATEE HARBOR	FL
32	METRO DENVER, SOUTH PLATTE	CO
33	MIAMI RIVER, LITTLE MIAMI RIVER	OH
34	MINGO CREEK	OK
35	MUSKINGUM RIVER AT MANSFIELD	OH
36	NEW HAVEN HARBOR	CT
37	NORFOLK HARBOR	VA
38	OAKLAND OUTER HARBOR	CA
39	OATES CREEK	GA
40	PERRY CREEK	IA
41	PUERCO RIVER & TRIBUTARIES-GALLUP	NM
42	RAHWAY RIVER - ROBINSON'S BRANCH	NJ
43	RAHWAY RIVER & VAN WINKLES BROOK	NJ
44	RARITAN RIVER - GREEN BROOK	NJ
45	REDBANK & FANCHER CREEK	CA
46	REDWOOD RIVER	MN
47	RICHARD B RUSSELL	GA,SC
48	ROCK RIVER	IL
49	ROOT RIVER BASIN	MN
50	SACRAMENTO RIVER BANK, FISH & WILDLIFE	CA
51	SACRAMENTO SHIP CHANNEL	CA

H.R. 3675 Projects Supported by the Administration

	Project Name	State
52	SAN JUAN HARBOR	PR
53	SANTA ANA RIVER, SANTIAGO CREEK	CA
54	SAVANNAH HARBOR	GA
55	SAW MILL RUN	PA
56	TRIMBLE WILDLIFE AREA, SMITHVILLE	MO
57	WHITE RIVER NAVIGATION, BATESVILLE	AR
58	WILMINGTON HARBOR - CAPE FEAR	NC
59	YAKIMA-UNION GAP	WA
60	ZUMBRO RIVER, SOUTH FORK	MN

H.R. 3678 Projects Not Reviewed by OMB

	Project Name	State
1	ALABAMA-COOSA WATERWAY	AL
2	ALBERT LEA LAKE	MN
3	ALENAIO STREAM	HI
4	AMITE RIVER	LA
5	ANACOSTIA RIVER	DC,MD
6	APAL., CHAT., FLINT RIVERS	GA,FL
7	ARCADIA LAKE	OK
8	ARKANSAS-RED RIVER BASIN	OK,TX
9	ARTHUR KILL CHANNEL	NY
10	ATCHAFALAYA BASIN	LA
11	BARNEGAT INLET TO LONG POINT	NJ
12	BAYPORT SHIP CHANNEL	TX
13	BEAVER RIVER CHANNEL	PA
14	BERKLEY PIER	CA
15	BETHEL BANK STABILIZATION	AK
16	BIG RIVER RESERVIOR	RI
17	BIRD ISLAND PIER BUFFALO	NY
18	BOGGY CREEK AT AUSTIN	TX
19	BOGUE CHITTO RIVER	LA
20	BRUSH CREEK AND TRIBUTARIES	KS,MO
21	BUFFALO HARBOR DEBRIS REMOVAL	NY
22	BUFFALO SHIP CANAL	NY
23	BUFFALO, SMALL BOAT HARBOR DIKE	NY
24 *	BUSHLEY BAYOU	LA
25	CAESAR CREEK	OH
26	CALLEGUAS CREEK	CA
27	CANERY CREEK	MS
28	CANNERY TO BREAKERS POINT	TT
29	CAPE GIRARDEAU	MO
30	CAPE MAY INLET TO LONG POINT	NJ
31	CASINO BEACH	IL
32	CENTRALIA	WA
33	CHICAGO UNDERFLOW-O'HARE	IL
34	CLEVELAND HARBOR	OH
35	COCONUT POINT, TUTUILA RIVER	TT
36	COLUSA TROUGH DRAINAGE	CA
37	COMITE RIVER	LA
38	COOPER LAKE AND CHANNELS	TX
39	COYOTE CREEK, ALVISO	CA
40	DARDANELLE LOCK AND DAM	AR
41	DEAL LAKE	NJ
42	DES MOINES RIVER, GREENBELT	IA
43	DULUTH-SUPERIOR	MN,WI
44	DUNKIRK HARBOR	NY
45	EAST, WEST & DUWAMISH	WA
46	ELM CREEK BRIDGES	NB
47	EVERGLADES	FL
48	FAIRFIELD, MIAMI RIVER	OH
49	FALMOUTH DAM, LICKING RIVER	KY
50	FIVE MILE CREEK	TX

* Projects under review by OMB

H.R. 3678 Projects Not Reviewed by OMB

	Project Name	State
51	FORT ELSINBORO	NJ
52	FORT GIBSON LAKE	OK
53	FORT TOULOUSE	AL
54	FORTESQUE	NJ
55	FRY CREEKS	OK
56	FUEL DOCK, TUTUILA ISLAND	TT
57 *	GALLIPOLIS LOCK AND DAM	OH,WV
58	GANDY'S BEACH	NJ
59	GOLD GULCH, FELTON	CA
60	GRANGER DAM ROAD	TX
61	GRAYS HARBOR	WA
62	GREENWOOD LAKE-BELCHER CREEK	NJ
63	HALSTEAD	KS
64	HAMPTON ROAD DEBRIS REMOVAL	VA
65	HAVRE WEIR	MT
66	HAWAIIAN GARDENS	CA
67	HELENA AND VICINITY	AR
68	HEREFORD INLET	NJ
69	HILO HARBOR	HI
70	ILLINOIS AND MISSISSIPPI CANAL	IL
71	ILLINOIS BEACH STATE PARK	IL
72	KILL VAN KULL	NY,NJ
73	LOS ANGELAS AND LONG BEACH HARBOR	CA
74	LA CONNER	WA
75	LAKE GEORGE, HOBART	IN
76	LAKE PONTCHARTRAIN MODIFICATION	LA
77	LARKSPUR FERRY CHANNEL	CA
78	LEWISVILLE LAKE ROAD	TX
79	LITTLE CALUMET RIVER	IN
80	LITTLE COLORADO RIVER, HOLBROOK	AZ
81	LITTLE RIVER	AR
82	LOCK & DAM 26, 2nd LOCK	IL,MO
83	LOCKS & DAMS 7 & 8	PA
84	LORAIN HARBOR	OH
85	LOUISVILLE	KY
86	LOWER GRANITE LOCK AND DAM	OR,WA
87	LOWER RIO GRANDE	TX
88	MAINE IRRIGATION STUDY	ME
89	MALHAUER & HARNEY LAKES	OR
90	MALINE CREEK	MO
91 *	MAUMEE BAY, STATE PARK	OH
92	MCNARY LOCK & DAM	WA,OR
93	MERAMAC RIVER	MO
94	MEREDOSIA	IL
95 *	METRO ATLANTA AREA	GA
96	MIDDLE RIO GRANDE	NM
97	MILTON DAM	OH
98	MISS RIVER, GULF TO BATON ROUGE	LA
99	MISSISSIPPI RIVER - ST. PAUL	MN
100	MISSION ZANJA CREEK - REDLAND	CA
101	MISSOURI RIVER F&WL MITIGATION	MO,KS

H.R. 3678 Projects Not Reviewed by OMB

	Project Name	State
102	MOBILE HARBOR	AL
103	MONMOUTH BEACH-SEA BRIGHT	NJ
104	MONROE AND WEST MONROE	LA
105	MONROE COUNTY	FL
106 *	MONROE HARBOR	MI
107	MORRO BAY PORT OFFICE	CA
108	MUCK LEVEE-SALT CREEK	IL
109	MUD LAKE	TN,KY
110	MUSCATINE ISLAND	IA
111	NEW YORK HARBOR-AMBROSE AND ANCHORAGE	NY,NJ
112	NEW YORK HARBOR-PORT JERSEY,CLAREMONT	NJ,NY
113	NATALBANY RIVER	LA
114	NEPONSET RIVER - MILTON	MA
115	NEW MELONES DAMS	CA
116	NEW YORK STATE BARGE CANAL	NY
117	NEWPORT BAY HARBOR	CA
118	NONCONNAH CREEK	TN,MS
119	NONCONNAH CREEK (SCS)	TN,MS
120	NORFOLK HARBOR BRIDGE TUNNEL	VA
121	NORTH BRANCH CHICAGO RIVER	IL
122	NOYAS	MN
123	OAK ORCHARD HARBOR	NY
124	OAKLAND INNER HARBOR	CA
125	OLIVER LOCK AND DAM, BLACK WARRIOR	AL
126	PARK RIVER GRAFTON	ND
127	PARKER LAKE, MUDDY BOGGY CREEK	OK
128	PARKER LAKE-REDARK	OK
129	PASSIAC & PEQUANNOCK RIVERS	NJ
130	PASSIAC RIVER (SECTION 1189)	NJ,NY
131	PASSIAC RIVER (SECTION 301)	NJ,NY
132	PASSIAC RIVER (SECTION 521)	NJ,NY
133	PEARL RIVER BASIN	MS
134	PEARSON-SKUBITZ BIG HILL LAKE	KS
135	PEBBLE BEACH DRIVE	CA
136	PIERCES POINT	NJ
137	PLATTE RIVER & TRIBUTARIES	NE
138	POPLAR BROOK	NJ
139	PORT OF BUFFALO	NY
140	PORTSMOUTH HARBOR - PISC. RIVER	NH,ME
141 *	QUINCY COASTAL STREAMS, TOWN BROOK	MA
142	RED LAKE RIVER	MN
143	RED RIVER WATERWAY MITIGATION	LA
144	REEDS BEACH	NJ
145	RICHMOND HARBOR	CA
146	RILLITO RIVER - TUCSON	AZ
147	ROUGHANS POINT	MA
148	RUDEE INLET	VA
149	SACRAMENTO RIVER, RED BLUFF/SHASTA	CA
150	SALT AND EEL RIVERS	CA
151	SALYERSVILLE	KY
152	SAM RAYBURN LAKE CAMPGROUNDS	TX

H.R. 3678 Projects Not Reviewed by OMB

	Project Name	State
153	SAN JUAN EMERGENCY WORK	PR
154	SAN LORENZO RIVER	CA
155	SANTA CRUZ HARBOR	CA
156	SARDIS LAKE	OK
157	SAUK LAKE	MN
158	SAULT ST. MARIE	MI
159	SAW MILL RUN-RELIEF SEWER	PA
160	SCHUYKILL RIVER BASIN	PA
161	SCIOTO RIVER, NORTH CHILICOTHE	OH
162	SEA BREEZE	NJ
163	SIMS BAYOU, BUFFALO BAYOU	TX
164	SOUTH QUINCY DRAINAGE	IL
165	SOWASHEE CREEK, MEREDIAN	MS
166	ST. GENEVIEVE	MO
167	ST. JOHN'S BAYOU	MO
168	ST. LOUIS HARBOR	MO,IL
169	ST. PAUL ISLAND	AK
170	ST. TAMMANY PARISH	LA
171	STREAM BANK EROSION, OHIO RIVER	OH
172	SWAN CREEK, NEWPORT	MI
173	SWEETWATER RIVER, MARSHLAND	CA
174	TANGIER ISLAND	VA
175	TANGIPHOA RIVER	LA
176	TCHEFUNCTE RIVER	LA
177	TEN-TOM WATERWAY	AL
178	TEXAS CITY CHANNEL	TX
179	THREEMILE CREEK	AL
180	TICKFAW RIVER	LA
181	TRILBY WASH, McMICKEN DAM	AZ
182	TRINITY RIVER	TX
183	TRUMAN DAM & RESERVIOR	MO
184	TUCSON GROUNDWATER RECHARGE	AZ
185	UNION BEACH	NJ
186	UPPER LITTLE ARKANSAS RIVER	KS
187	VESTAL	NY
188	WEST KENTUCKY TRIBUTARIES, OBION CREEK	KY
189	WAILUA FALLS	HI
190	WENATCHEE CANYONS	WA
191	WEST MEMPHIS AND VICINITY	AR
192	WILLOUGHBY SPIT	VA
193	WILSON HARBOR	NY
194	WINFIELD LOCK AND DAM	WV
195	WRIGHTSVILLE BEACH	NC
196	WYOMING VALLEY	PA
197	YAQUINA BAY	OR
198	YAZOO BACKWATER AREA	MS

H.R. 3678 Projects Opposed by the Administration

	Project Name	State
1	ATLANTIC COAST OF MARYLAND-OCEAN CITY	MD
2	ATLANTIC INTERCOASTAL WATERWAY BRIDGES	NC
3	CABIN CREEK	WV
4	CHARLOTTE COUNTY	FL
5	CONEY ISLAND, ROCKAWAY INLET	NY
6	CROWN BAY, ST. THOMAS	VI
7	DADE COUNTY	FL
8	FOLLY BEACH	SC
9	GREEN BAY LEVEE, #2	IA
10	GREENVILLE HARBOR	MS
11	HELENA HARBOR, PHILLIPS COUNTY	AR
12	INDIAN RIVER COUNTY	FL
13	INDIANA SHORELINE	IN
14	LAKE PONTCHARTRAIN	LA
15	LAVA FLOW CONTROL	HI
16	LOUISIANA STATE PENITENTIARY	LA
17	MEMPHIS HARBOR	TN
18	MUSKINGUM RIVER - KILLBUCK	OH
19	OLCOTT HARBOR	NY
20	PANAMA CITY BEACH	FL
21	PRESQUE ISLE PENINSULA, ERIE	PA
22	ST. JOHN'S COUNTY	FL
23	TAMPA HARBOR O & M	FL
24	VICKSBURG HARBOR	MS
25	VILLAGE CREEK	AL

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, DC 20510

April 18, 1985

Mr. Robert K. Dawson
Acting Assistant Secretary
  of the Army
Department Of The Army
Office Of The Assistant Secretary
Washington, D.C. 20310-0103

Dear Mr. Secretary:

Thank you for your letter concerning Mount St. Helens. Alden H. Jones of Kelso, Washington, came to visit my office earlier this week. As we have discussed, Mr. Jones believes that the plan of the Corps of Engineers to construct a silt-retention structure below Mount St. Helens is unnecessary.

To help clarify this issue, he suggested that we need to answer the following questions:

1. The Corps of Engineers' Feasibility Report states on Page IX-1 that debris from the avalanche "is reducing flood protection levels in downstream urban areas." What is the volume of debris which is reducing flood protection? Since Public Law 98-63 requires the Corps to maintain 100-year flood protection, what is the rating of the "reduced flood protection"?

2. The Feasibility Report includes, on Page I-15, a Table I-3. This table presumes to establish a range of the highest and the lowest annual sediment yields that conceivably could occur---the highest being 70 million cubic yards (mcy) and lowest being 30 mcy. The sediment yield for 1983 is reported on Page II-7 to have been 18 mcy and the yield for 1984 has recently been reported to have been 16 mcy. Should we assume that Table I-3 no longer has relevance to the sediment entering the river? If it has relevance, why?

3. The Feasibility Report says on page II-6: "Sediment yields from the debris avalanche are expected to remain high throughout the 50-year-life of the project." The Corps originally forecast 50 mcy through 1990 and has now forecast 28 mcy for 1985, dropping to 23 mcy by 1990. The Corps has reported actual yields of 18 mcy in 1983 and 16 mcy in 1984. Does Corps regard this as evidence of a "high" yield? Please explain.

4. The Feasibility Report states on page I-15: "A drastic reduction in the total sediment yield from 1 billion cubic yards to 400 mcy would result in Strategy 2 being less expensive than Strategy 5." Since annual yields have declined dramatically below forecast levels, and a sediment dam has been recommended with a capacity of 299 mcy, can we assume that Corps is reluctant to consider seriously the least-expensive strategy? If so, why?

My thanks for your assistance. It would be helpful to have your answer to these questions as soon as possible.

Sincerely yours,

Robert T. Stafford
Chairman

RTS/hbd

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310 -0103

Honorable Robert T. Stafford
Chairman, Committee on Environment
  and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This in further response to your letter of April 18, 1985, regarding questions about Mt. St. Helens. Enclosed are the responses to your questions. The numbered responses relate to the corresponding questions.

I will be happy to provide any additional clarification if you find it necessary.

High regards,
~~Sincerely,~~

Bob Dawson
Robert K. Dawson
Acting Assistant Secretary of the Army
(Civil Works)

Enclosure

1. The specific quotation cited from p. IX-1 of the Draft Feasibility Report was changed in the Final Feasibility Report to read: "The sediment deposits, if not removed, could eventually create a flooding possibility for downstream urban areas." The Feasibility Report states that debris avalanche erosion during 1981, 1982, and 1983 was 30 million cubic yard (mcy), 34 mcy and 18 mcy, respectively. The annual erosion has varied with the amount of Toutle River runoff. Over those 3 years, 25 mcy of sediment have been dredged from the Toutle and Cowlitz Rivers, resulting in continued protection against flooding. The erosion during 1984 is still being evaluated based upon field surveys.

In 1983, Public Law 98-63 authorized the Corps to provide interim flood protection until a permanent solution could be implemented. Emergency levee raises and dredging were initiated to provide 100-year protection on a temporary basis. Even with these actions, emergency (temporary) levels of protection dropped as low as 10-year frequency when sediment filled the channel. If no interim dredging had occurred, we estimated that the Cowlitz River would have filled in by 1987.

2. Table I-3 in the Feasibility Report indicates the sensitivity of the five Comprehensive Plan alternative management strategies to various annual sediment deliveries. It was intended to show that the SRS was cost effective even with a wide range of sediment delivery. This information was developed during the Comprehensive Plan and shown in the Feasibility Report for background information only. The updated costs and sediment delivery in the remainder of the Feasibility Report have rendered this table obsolete.

3. We stated in the Comprehensive Plan and Feasibility Report that the sediment budget should be continuously monitored and revised, if necessary, to reflect actual rates. The reported actual sediment yield of 18 mcy in 1983 was lower than anticipated due primarily to the lack of any high storm flows during that year. Because sediment moves at an exponential rate with flow, uniform rainfall and flows result in much lower sediment yields than from severe storm events. However, a high sediment yield could be expected any time in the future when major storm events occur.

A significant reduction occurred to the projected sediment budget from the Comprehensive Plan to the Feasibility Report, as you have cited. We are currently updating the sediment budget which was contained in the Feasibility Report. The updated sediment budget will be used as a basis for reevaluating alternative plans. Even though the predicted erosion has been reduced since the Comprehensive Plan, based upon measured erosion rates, we still regard sediment yields as extremely high. The current erosion estimate greatly exceeds preeruption erosion in the Cowlitz-Toutle system or any other similar size river in the United States.

4. The Corps of Engineers is not reluctant to consider the least expensive strategy for dealing with the sediment problem. The Chief of Engineers Report, dated 3 April 1985, recommends that the Secretary of the Army have authority to implement either a staged single retention structure or continued dredging if he determines that further analysis of benefits and costs or further sediment monitoring provides compelling and convincing new evidence to justify selection of an alternative other than the single-stage single retention structure. Thus, during the ongoing Continued Engineering and Planning, the Corps of Engineers is updating information on all three alternatives.

Additionally, comparing the 400 mcy analysis developed in the Comprehensive Plan (page I-15 of the Feasibility Report is a summary of Comprehensive Plan data) to a 299 mcy single retention structure storage capacity is invalid. The 400 mcy figure is an estimate of total sediment yield from the avalanche, not the amount of material needed to be handled to provide flood protection. The 400 mcy figure should be compared to the 750 mcy estimate used in the Feasibility Report. The point of the analysis on page I-15 was to show that the SRS strategy was the least-cost alternative from 40 to 200 percent of the reported sediment budget. A comparable analysis in the Feasibility Report (pages IV-21 - IV-26) shows that the SRS is the least-cost alternative from 60 percent of the sediment budget.

RESPONSES TO QUESTIONS SUBMITTED BY
SENATOR DOMENICI

QUESTION: Is it the view of the Administration that adoption of a meaningful cost recovery program is essential if we are to obtain the President's signature on a bill?

RESPONSE: Yes. It is clear that the old ways of doing business are no longer working. The level of Federal funding needed for water project has not been available in the past and is simply not going to be available in the future. New cost recovery programs are necessary to revitalize the Nation's water resources program, and would need to be a part of any bill which the President would sign.

QUESTION: Would the Administration support legislation that contains no inland navigation provisions -- no projects and no user charges -- offering the danger, of course, that the projects might be added in conference or through the Appropriation process?

RESPONSE: We have transmitted our proposals in two separate bills, and would support this approach, because we are very much aware of the special problems and sensitivities concerning the inland navigation provisions.

Q. In response to questions from this Committee at a hearing in March, you estimated that a 1.5-mills-per-ton-mile fee would add 1.247 cents to the cost of moving a bushel of wheat from Chouteau County, Montana, to Portland, Oregon, via Lewiston, Idaho. You further compared that cost to the 15.5 cents/bushel barge rate, the 5 cents/bushel transfer fee charged by the river elevator, the 65 cents/bushel cost for trucking the wheat to the river elevator, plus the 10 cents/bushel charge by the inland terminal elevator. I believe that works out to 95.5 cents per bushel. Thus, the fee in S. 967 would add less than 1.5 percent to the farm-to-port transportation cost of a bushel of Montana wheat. Do you agree with that conclusion? Would you also tell us what is the typical cost for moving a bushel of wheat from Portland to a Pacific Rim port? What is the typical per-bushel purchase price of that bushel of wheat at the foreign port? Would you please give us a similar breakdown on a bushel of wheat grown in North Dakota, a bushel of corn grown in Illinois, and a bushel of soybeans grown in Iowa, all barged to New Orleans for export.

A. Yes, we still agree with our earlier March response; this was for April 1985 Spring Wheat bid price FOB cars or barges at Portland. As to your second question, the typical cost for moving wheat from the North Pacific (Seattle; Portland; etc) to Japan was quoted at $8.65/ton in April, and $9.00 in May 1985. This equates to about 26 cents and 27 cents per bushel respectively. The ocean rate from a Gulf port is about 45 cents per bushel.

Enclosed is a set of three tables prepared by a DOT/Corps of Engineers task group on April 25, 1985. These tables provide cost breakdowns and user fees for wheat, soybeans, and corn to Rotterdam and Yakohama from Eight different domestic locations to the Gulf. These include Iowa and Illinois origins. North Dakota wheat, by barge to the Gulf, moves via Minneapolis. The rail rate from Bismark, ND to Minneapolis is approximately 50 cent per bushel; from Frago, ND to Minneapolis it is about 34 cents per bushel.

FARM PRICE FOR MARCH, 1985 & CHARGES (PER BUSHEL)

WHEAT

ROTTERDAM

Average User Charge as a % of Delivered Price	1.5%
Delivered Price Rotterdam	$3.87/bushel
Ocean Freight	0.25 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	3.54

YOKOHAMA

Average User Charge as a % of Delivered Price	1.4%
Delivered Price Yokohama	$4.07/bushel
Ocean Freight	0.45 5/
Export Elevator Charges	0.08 3/
Avg. Bid at Gulf	3.54

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE		NEW ORLEANS PORT USER CHARGE: COE/USCG
							COE	USCG	
Minneapolis	3.54	.23	.04	.14	.04	3.09	.06	.01	.009
Davenport	3.54	.19	.04	.14	.04	3.13	.05	.008	.009
St. Louis	3.54	.12	.04	.14	.04	3.20	.035	.006	.009
Osceola	3.54	.10	.04	.14	.04	3.22	.02	.004	.009
Peoria	3.54	.18	.04	.14	.04	3.14	.04	.007	.009
Cincinnati	3.54	.14	.04	.14	.04	3.18	.05	.008	.009
Louisville	3.54	.13	.04	.14	.04	3.19	.04	.007	.009
Kansas City	3.54	.23	.04	.14	.04	3.09	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News

2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis

3/ Grain Industry and Elevator Operators

4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.

5/ U.S.D.A. - Grain Transportation Situation

FARM PRICE FOR MARCH, 1985 . CHARGES (PER BUSHEL)

SOYBEANS

ROTTERDAM

Average User Charge as a % of Delivered Price	1.0%
Delivered Price Rotterdam	$6.49/bushel
Ocean Freight	0.25 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	6.16

YOKOHAMA

Average User Charge as a % of Delivered Price	.9%
Delivered Price Yokohama	$6.69/bushel
Ocean Freight	0.45 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	6.16

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE		NEW ORLEANS PORT USER CHARGE: COE/USCG
							COE	USCG	
Minneapolis	6.16	.23	.04	.14	.04	5.71	.06	.01	.009
Davenport	6.16	.19	.04	.14	.04	5.75	.05	.008	.009
St. Louis	6.16	.12	.04	.14	.04	5.82	.035	.006	.009
Oscrola	6.16	.10	.04	.14	.04	5.84	.02	.004	.009
Peoria	6.16	.18	.04	.14	.04	5.76	.04	.007	.009
Cincinnati	6.16	.14	.04	.14	.04	5.80	.05	.008	.009
Louisville	6.16	.13	.04	.14	.04	5.81	.04	.007	.009
Kansas City	6.16	.23	.04	.14	.04	5.71	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News

2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis

3/ Grain Industry and Elevator Operators

4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.

5/ U.S.D.A. - Grain Transportation Situation

FARM PRICE FOR MARCH, 1985 L CHARGES (PER BUSHEL)

CORN

ROTTERDAM

Average User Charge as a % of Delivered Price	1.7%
Delivered Price Rotterdam	$3.34/bushel
Ocean Freight	0.23 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	3.03

YOKOHAMA

Average User Charge as a % of Delivered Price	1.6%
Delivered Price Yokohama	$3.53
Ocean Freight	0.42 5/
Export Elevator Charge	0.08 3/
Avg. Bid at Gulf	3.03

ORIGIN	1/ AVG. BID AT GULF	2/ BARGE COST	3/ RIVER ELEVATOR COST	TRUCK COST	3/ ELEVATOR CHARGE	4/ BID AT INLAND ELEVATOR	INLAND USER CHARGE		NEW ORLEANS PORT USER CHARGE COE/USCG
							COE	USCG	
Minneapolis	3.03	.22	.04	.13	.04	2.60	.06	.01	.009
Davenport	3.03	.18	.04	.13	.04	2.64	.04	.007	.009
St. Louis	3.03	.11	.04	.13	.04	2.71	.03	.006	.009
Osceola	3.03	.09	.04	.13	.04	2.73	.02	.004	.009
Peoria	3.03	.17	.04	.13	.04	2.65	.04	.007	.009
Cincinnati	3.03	.13	.04	.13	.04	2.69	.05	.008	.009
Louisville	3.03	.12	.04	.13	.04	2.70	.04	.007	.009
Kansas City	3.03	.22	.04	.13	.04	2.60	.05	.008	.009

1/ U.S.D.A. - Grain and Feed Market News

2/ St. Louis Grain Exchange; first three weeks of March, 1985. Prepared by C.O.E., St. Louis.

3/ Grain Industry and Elevator Operators

4/ The inland elevator bid, the price which the farmer receives, reflects the average bid at the Gulf minus the transportation and related charges of delivering the grain to the Gulf. The example assumes an inland elevator approximately 100 miles from the river. The grain moves by truck from the inland elevator to the river elevator.

5/ U.S.D.A. - Grain Transportation Situation

Question: It is correct, is it not, that spending on Corps of Engineers construction, in real dollars, has declined by 78 percent during the past 20 years? Let us assume that Congress makes a major reversal in the recent downward trend, and increases the level of annual Corps construction work to $1 billion, then maintains that level, in real terms, for the next decade. And let us also assume enactment of S. 366, as introduced. If those things were to happen, I would like to know what we can expect the Corps to accomplish in new work over the coming 10 years. How much of that $10 billion in Federal construction money would likely go to complete projects now underway? How many new projects can we reasonably expect to see initiated, under prudent management? How many of those projects would we likely see completed? What would be the size of the project backlog in 1995? Please provide similar information on a program that would be undertaken, assuming enactment of S. 534 and S. [illegible], your Administration proposals, as well as similar information if no changes were made in the "traditional" cost sharing, but all the projects in S. 366 were to be authorized?

Answer: The appropriations for the Corps of Engineers construction program in Fiscal Year 1967, when expressed in inflated of 1984 dollars, would amount to $4.3 billion. When compared to the $1.0 billion budgeted in Fiscal Year 1986, construction funding has experienced a 77% reduction over the 20-year span. These figures include the Construction, General appropriation as well as the construction portion of the Flood Control, Mississippi River and Tributaries appropriation. For example, the Corps budget request for construction work in Fiscal Year 1986 is $842 million for Construction, General and $173 million for Mississippi River and Tributaries, or a total of just over a billion dollars. Expenditures for this work would closely parallel appropriations.

Program funding requirements are projected for a five-year period rather than ten, and over the next five-year period a ceiling of $1 billion annually for construction, escalated for inflation on the same basis as our projections, would amount to $5.4 billion 5-year total compared with the $5.6 billion now being projected for our construction program, or a reduction of about $200 million. Of the $5.6 billion for our construction program, $4.5 billion would be for continuing work and $1.1 billion for new work. The 29 new starts budgeted for initiation in Fiscal Year 1986 will require a total of $0.5 billion in the Federal expenditures over the next five years, leaving $0.6 billion in expenditures for new starts during the period Fiscal Year 1987 through Fiscal Year 1990. With the $1.0 billion funding constraint, the $200 million reduction would have to be applied to the amount set aside for new starts. It should be noted that the funding estimates for new starts are based on the Administration cost-sharing proposals.

To stay within the $1.0 billion annual limitation, we would have to initiate projects, the Federal costs of which would total $1.0 billion each year. Constraints may have to be imposed on large, long-term projects, such as those for the Inland Waterways and deep-draft ports, many of which are now being funded for preconstruction planning and engineering. Obviously, the applicable cost sharing requirements will have a direct effect on the amount of work that can be accomplished within any fiscally constrained program.

The estimates of Federal costs based on the number of projects and cost sharing proposals included in S. 366 have not been completed, but we do have the S. 366 cost sharing worked out for those projects in S. 534. Assuming the 58 projects in S. 534 are typical of the future workload mix, the average project cost would be about $67 million, and the average Federal share equal to $46 million, based on the S. 366 cost sharing proposals. With an annual construction limitation of $1.0 billion, we could initiate about 39 projects during the next five years, or 10 projects over and above the 29 budgeted for FY 1986. As far as completions are concerned, that would depend entirely on which projects are selected in future years. Corps projections for future new starts are programmatic rather than project specific.

Estimates of Corps funding requirements are maintained for a five year period; therefore projection of effects on the backlog in 1995, a 10-year period, are quite conjectural. However, if it was assumed that the annual growth of the amount made available for new starts in the first five years of an annual $1.0 billion constrained program would continue through a second five-year period, there would be about $2.7 billion made available for new starts, or a total of $3.6 billion over a 10-year period. S. 366 authorizes 164 projects, and based on the average Federal cost per project under the bill's cost sharing proposals; construction of 104 projects could be initiated within the 10-year period; thus, there would be a net increase of 60 projects in the backlog. Under provisions of S. 534 and S. 967, there would be 62 projects authorized and all could be initiated during the same 10-year period, thereby avoiding any addition to the backlog. Using traditional cost sharing and S. 366 authorizations, 77 of the 164 authorized projects could be initiated, for a net increase of 85 projects in the backlog.

QUESTION: One of the real problems confronting any evaluation of your program is trying to analyze whether the projects are financially feasible. It seems to me you might wish to inaugurate a system that directs your Corps planners to evaluate the feasibility of non-Federal cost sharing as they develop each and every plan for projects from this time onward. Would that be practical?

RESPONSE: Our current system, as you know, focuses on the economic feasibility of a project which is depicted by the b/c ratio presented in our reports. Also presented in the report is a letter from the potential project sponsor(s) indicating an understanding of the alternatives studied and support for the plan that provides the best solution from the non-Federal perspective.

We agree that potential project sponsors will need more financial feasibility information than they have in the past. Project sponsors will be looking for such information as we move into 50/50 cost sharing for feasibility studies and thus greater participation by the sponsors. We believe, however, that primary responsibility for financial planning and implementation should remain with project sponsors. Such analyses could become part of the non-Federal in-kind share of the feasibility study.

QUESTION: Would you provide us with draft legislation that would give non-Federal interests the option to keep money they will spend on a project until that local share is actually needed for a given project. This would allow the States to obtain the interest income for part of each year, instead of the Federal Government?

ANSWER: Pursuant to your request, the following draft legislative language would offer local project sponsors the option of making cost sharing payments either on an annual basis, as is the case now, or in accordance with a payment schedule established by the Secretary that would require payments when needed, perhaps on a month-to-month or other basis:

SEC. ____. Except where otherwise provided by law, the Secretary of the Army shall, at the request of non-Federal local interests that have agreed or are required to provide a share of the construction costs of any water resources project under the Secretary's jurisdiction, establish a payment schedule such that amounts to be provided by local interests are received as they are needed during the period of construction.

Please understand that this draft is provided as a service only and does not constitute any comment on the merits of the proposal. It is the policy of the Department of the Army to comment on the merits of legislation only in response to a request from the Chairman of the Committee to which the legislation has been referred for consideration and after clearance by the Office of Management and Budget.

Q. Please provide us with a list of all navigation projects now in the Corps planning process, together with the anticipated date of the Division Engineer's notice on each of them.

A. The following is a list of the navigation studies currently underway for which the Feasibility report has not yet been completed and the anticipated date of the Division Engineers notice for each.

Navigation Studies
(Feasibility)
Underway in FY 1985

Study Name	Anticipated Division Engineer Notice date
Alabama	
Alabama-Coosa River Below Claiborne L&D	Sept 1987
Bayou La Batre	Feb 1987
Alaska	
Southcentral Deep-Draft Navigation	Nov 1988
Arkansas	
Arkansas River & Tribs, Hydropower & other purposes, AR & OK	Not Available
California	
Coast of N. California Harbors	Not Available
Los Angeles - Long Beach Harbors	Not Available
Redondo Beach Harbor	Sept 1988
San Francisco Bay Area (In-Depth)	Feb 1988
Sunset Harbor	Not Available
Ventura Marina	Sept 1988
Connecticut	
Bridgeport Harbor	Not Available
Florida	
Biscayne Bay	Not Available
Clearwater (Dredged Material Disposal)	Not Available
Escambia River	Apr 1987
Jupiter Inlet	Not Available
Mexico Beach Inlet	Not Available
Miami Harbor Channel	Sept 1986
Miami Harbor (Miami River)	Not Available
Port Sutton Channel	Sept 1985

Study Name	Anticipated Division Engineer Notice date
Georgia	
Apalachicola, River "303" Reports, GA, AL & FL	Dec 1988
Brunswick Harbor	Sept 1987
Savannah Harbor Comprehensive	Sept 1986
Guam	
Harbor & Rivers in the Territory of Guam	Aug 1987
Hawaii	
Hilo Bay Metro Area	Not Available
Kentucky	
Cumberland-Tennessee Rivers, KY, AL, GA, MS, NC, TN & VA	Sept 1989
Green & Barren Rivers, KY	Sept 1989
Louisiana	
Gulf Intracoastal Waterway, LA & TX Section	Feb 1989
Maine	
Fore River Channel Portland Harbor	Sept 1986
Massachusetts	
Boston Harbor	Sept 1985
East Boat Basin, Sandwich	Not Available
Michigan	
Great Lakes Connecting Channels and Harbors	Sept 1985
Mississippi	
Wolf and Jordan Rivers	Aug 1985
New Jersey	
Delaware River Comprehensive Navigation Study, PA, NJ, & NY	July 1990

Study Name	Anticipated Division Engineer Notice date
New York	
Arthur Kill Channel, Howland Hook Marine Terminal	June 1985
Buffalo Harbor	Sept 1985
Great Lake to Hudson River Waterway	Not Available
New York Harbor & Adjacent Channels, NY & NJ	June 1987
Reynolds Channel, Jamaica Bay	Not Available
St. Lawrence Seaway Additional Locks	Mar 1988
Oregon	
Columbia River Coal Export Astoria	Dec 1986
Rhode Island	
Providence Harbor - Debris Study	May 1985
Texas	
Galveston Bay Area	Sept 1986
Virginia	
York & Pamunkey Rivers	Oct 1985
Washington	
Seattle Harbor - Duwamish Waterway	May 1989
Snohomish River (Navigation)	Not Available
West Virginia	
Big Sandy Rivers, WV, KY & VA	Sept 1987
Kanawha River	Sept 1988
Wisconsin	
Green Bay Hbr (1962 Modification)	Not Available

Q. The National Waterways Study made this observation: "By 2003, congestion due to limited capacity is estimated to increase the waterborne freight bill by over $1 billion annually. Based upon NWS physical evaluation parameters, 62 U.S. locks and 8 Canadian locks need to be considered for modernization -- renovated, replaced and/or supplemented -- in the next 20 years. Additionally, channel work in a limited number of waterways and in coastal channels would significantly contribute to achieving more efficient use of vessels and existing water way structures.

"Costs, estimated in 1982 dollars, to complete the U.S. navitation projects currently under construction are $2.9 billion; another $8.9 billion is estimated for rehabilitation and improvement of the inland waterway system."

My questions are these: Is it correct that the average annual cost of renovating and replacing those 62 U.S. locks by 2003 would be about $500 million yearly ($8.9 billion, divided by 18 years)? Your bill would then pass 70 percent of that cost on to the users, or $350 million yearly. Given the $350 million yearly cost, against the ultimate $1 billion yearly savings due to a more efficient system, what is the net annual cost or savings to the waterway users as a result of a program to rebuild those 62 locks?

A. The National Waterway Study analyzed the impacts of projected waterway traffic on the capacity and performance of the waterway system. Estimates of added costs due to congestion reflect these assumptions. The NWS did not attempt to perform a benefit-cost analysis, and did not obtain estimates of benefits. Therefore, it is not an appropriate source to imply net annual costs or savings to waterway users.

QUESTION: Section 511 of the Administration bill authorizes the sale of Government-owned dredges and other equipment. Section 511, however, limits these sales to foreign buyers. What is the Corps plan? How many dredges do you plan to sell; how many do you plan to retain? I understand the foreign- only restriction is justified on the basis that it might otherwise jeopardize Maritime Administration loans to U. S. dredging companies? What evidence is there that a domestic sale would jeopardize such loans? What is the value outstanding of Maritime Administration loans for hopper dredges? Since the language prevents U. S. companies from competing to buy the dredges and equipment, doesn't such a limitation sharply reduce the money the taxpayer will receive in the sale? Also, by cutting down on the number of U. S.-flag dredges, won't Section 511 lead to higher costs to the taxpayer for contract dredging since there will be less Government-plant available to hold down costs?

RESPONSE: Section 511 provides for the sale of retired Corps hopper dredges to federal and state maritime academies, the sale or lease to foreign governments under foreign assistance programs or for sale to foreign or domestic interests as scrap. It effectively precludes the use of these dredges by private interests for contractual dredging in the United States.

The Corps plan is to proceed with the disposal of most of these vessels, consistent with Section 511, as expeditiously as possible, thereby minimizing the continuing expense of retaining these vessels in storage. We have had some indication that at least two foreign governments may wish to arrange the sale or lease of the vessels. The Corps has advised me that the steam-powered dredges will probably be sold for scrap. Steam equipment of the age of these vessels, over forty years, which is stored for any period of time is prohibitive to rehabilitate. The rehabilitation of the retired diesel-powered dredges will also be expensive but may prove attractive to Maritime Academies and friendly developing nations with which we have an assistance program.

It is the intent of the Corps to retain three of the diesel-powered hopper dredges in stand-by status to respond to national defense or emergencies. These vessels will also be available for disposal if our experience indicates that our Corps of Engineers Reserve Fleet concept is a workable option over a reasonable time period. The remaining 11 hopper dredges would be subject to immediate disposal action.

The restrictions in Section 511 were developed for a number of reasons, one of which is the matter of large outstanding subsidy loans by the Maritime Administration. Public Law 95-269 provided a policy and climate to encourage the private industry to make large investments in hopper dredges, which up to that time were all Government-operated. The Congress expressed its concern regarding the impact of disposing of Corps hopper dredges in H. R. 95-1490, which accompanied the 1979 Appropriations Act. The conferees further indicated that as the industry constructed new dredges and demonstrated its capability to do the work previously performed by Corps dredges at reasonable costs and in a timely manner, the Corps should retire its dredges consistent with the provisions of Public 95-269. In the face of this initiative of industry to invest heavily in expensive, modern and efficient hopper dredges, the Congress was concerned that the disposal of retired Corps dredges could adversely affect this investment and be counterproductive in terms of assuring modern and efficient contract dredges to replace the obsolete retired Corps dredges. It was in this perspective that we framed the provisions of Section 511. The industry has responded commendably to the initiatives provided by Public Law 95-269 by constructing 12 new hopper dredges since its enactment in 1978, and presently has another dredge under construction. While the Maritime Administration has provided loan subsidies for most of these dredges, it is important to note that the private sector has made a major investment and commitment consistent with the provisions of Public Law 95-269.

To amplify the potential impacts of selling retired Corps hopper dredges for use in this country, it is clear that with the availability of these old and obsolete Corps dredges at minimum investment, a U. S. firm could undercut those contractors with major investments in new plant on the basis of depreciation alone. This would serve to place these firms which have large investments in new plant in a critical financial posture which could be disastrous to the economic viability of the firm, jeopardize their ability to satisfy outstanding loans with the Maritime Administration and commercial lending institutions and ultimately reduce the number of new and efficient industry hopper dredges available to do Corps work as well as work for ports and others. In the long-run, such a scenario would be damaging to the dredging industry, the Corps and its navigation mission, and the Maritime Administration which holds a substantial loan portfolio related to the industry hopper dredges. It is my view that the taxpayer would be a multiple loser under such a circumstance.

In response to an inquiry by the Corps, the Maritime Administration provided information which indicates the total loan value for dredges constructed in response to Public Law 95-269 is $100 million as of August 1984. There is reason to believe that this figure may be substantially higher at this time.

The twelve industry hopper dredges are competing for most of the work previously performed with eleven Corps hopper dredges. The Corps minimum fleet includes only four hopper dredges to respond to the emergency and defense missions included in PL 95-269. The industry has displayed the ability to perform hopper dredge work in a timely and economic manner. This can be demonstrated in a review of the three most recent years of bidding experience. In FY 82, the aggregate low bids for hopper dredging contracts were 88 percent of the government estimates. In FY 83 and FY 84, this trend has continued at 105 and 104 percent respectively. This indicates a favorable competitive market position when related to the provision of PL 95-269 which indicates awards should be made when the industry bids are within 25% of the government cost estimate for performance of the work.

QUESTION: The Federal spending on contract dredging has quadrupled over the past decade, rising from $86 million to $350 million. What evidence do you have that this money is spent more efficiently, now that you contract out most dredging? What was the cost, per cubic yard, for all Corps hopper dredging during FY 1984? How does that compare with your costs, per cubic yard, in 1976 for all hopper dredge work, at a time when most of your hopper dredge work was accomplished by Government-owned plant?

RESPONSE: The Corps spent $86 million for contract dredging in FY 1972 out of a total dredging program of $141 million, while it spent $369 million for contract dredging in FY 1982 out of a total dredging program of $445 million. Certainly, these dredging costs, both contract and total program, have escalated significantly. A large factor in this escalation was the unexpected and extraordinary increase in fuel prices during this period. Another major contributing factor was the impact of the various environmentally related statutes which were enacted and implemented during the early seventies. Cost escalation and a variety of other reasons also contributed to the increase in the cost of dredging while the dredging yardage remained relatively stable during the past decade. A direct comparison cannot fully represent these other factors without some description of the elements which contributed to the increase in cost.

In 1977, the Corps initiated the Testing of the Market Program on a regional basis and expanded the program to a national basis in the Industry Capability Program. Both of these programs were initiated to evaluate the comparative cost of Corps and contract dredges. With the enactment of Public Law 95-269 in 1978, the Corps modified the Industry Capability Program to quantify the capability of the private industry to perform dredging in a timely manner and reasonable costs within the provisions of the law. The results of the Industry Capability Program were presented to the Congress in May 1982. The report indicated that costs of contract dredging were the same or slightly higher than the government estimate for the work, but certainly well below the 125 percent awardable limit established by the statute. The Corps has continued to monitor dredging contract costs as it retired the majority of its fleet and relied on performing up to 85 percent of the dredging program by contract. The results since the conclusion of the Industry Capability Program have confirmed that the contract costs are for the most part, well within the awardable range specified in Public Law 95-269. In fact, on a regional basis and type of dredge, our experience has indicated that contract prices are frequently substantially less than the government estimates. It largely depends on the market and the level of competition, which remains keen in the regions where the majority of the yardage is located. These facts support the conclusion that the funds expended for contract dredging are being used efficiently.

The unit cost or cost per cubic yard for the Corps hopper dredges in FY 1984 amounted to $1.42 per cubic yard. During the same period the unit cost for the industry hopper dredges was $1.60 per cubic yard or about 13 percent higher than that of the government dredges. This is largely due to the nature of the dredging performed by the government dredges and that performed by contract. For instance, nearly 65 percent of the Corps hopper dredging was performed by the new hopper dredge WHEELER while operating in the agitation mode at a unit cost of $0.88 per cubic yard. The preponderance of the industry dredge yardage was associated with the more expensive load and haul operations. The Corps does not have reliable unit costs for the Corps hopper dredges in 1976; however, it does have overall program unit cost for Corps dredges in 1976 and 1984. These are $0.66 per cubic yard and $1.62 per cubic yard respectively. Contract unit costs for the same years are $0.94 and $1.58 respectively.

Taking into consideration the different type of dredging performed by the industry and Corps dredges, the aggregate unit cost for contract dredging across the board remains favorable when compared to the government estimates and the Corps costs for similar type work under similar conditions.

II

99TH CONGRESS
1ST SESSION

S. 366

To authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 31 (legislative day, JANUARY 21), 1985

Mr. ABDNOR (for himself, Mr. MOYNIHAN, Mr. STAFFORD, Mr. BENTSEN, Mr. ANDREWS, Mr. CHAFEE, Mr. D'AMATO, Mr. DENTON, Mr. EVANS, Mr. GORE, Mr. GORTON, Mrs. HAWKINS, Mr. LAXALT, Mr. MATHIAS, Mr. MURKOWSKI, Mr. PRESSLER, Mr. SARBANES, Mr. SASSER, Mr. STEVENS, Mr. TRIBLE, Mr. WARNER, Mr. WILSON, and Mr. BOSCHWITZ) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1985".

TITLE I

Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers (hereinafter in this Act referred to as the "Secretary"), shall, from funds appropriated, obligate no sums in excess of the sums specified in this title for the combined purpose of the "Construction, General" account and the "Flood Control, Mississippi River and Tributaries" account:

(1) For the fiscal year ending September 30, 1986, the sum of $1,400,000,000.

(2) For the fiscal year ending September 30, 1987, the sum of $1,400,000,000.

(3) For the fiscal year ending September 30, 1988, the sum of $1,500,000,000.

(4) For the fiscal year ending September 30, 1989, the sum of $1,500,000,000.

(5) For the fiscal year ending September 30, 1990, the sum of $1,600,000,000.

Nothing contained herein limits or otherwise amends authority conferred under section 10 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 621). Any amounts obligated against funds furnished or reimbursed by Federal or non-Federal interests shall not be counted against the limitation on obligations provided for in this Act.

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Prior to initiating construction of any water resources project authorized prior to this Act, in this Act, or subsequent to the Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which are produced by an increase in anticipated land values to a land owner, the Secretary shall enter into an agreement with such owner or owners that provides that such owner or owners will repay to the Secretary, for deposit in the Treasury, either prior to construction or when such benefits are realized, 50 per centum of that portion of the project's costs allocated to the owner's benefits.

(b) For any study initiated by the Secretary subsequent to the enactment of this Act, the Secretary shall, if appropriate, include information in such study report on the likelihood that the requirements of subsection (a) of this section are applicable.

SEC. 202. Any report describing a project having recreation benefits that is submitted subsequent to the enactment of this Act to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or by the Secretary of Agriculture under authority of Public Law 83–566, as amended, shall describe the usage of other, similar public recreational facilities within the general area of the project, and the anticipated impact of the proposed project on the usage of such existing recreational facilities.

Sec. 203. (a) Any project, or separable element thereof, that is under the responsibility of the Secretary, and for which construction has not commenced within ten years following the date of the authorization of such project, shall no longer be authorized after such ten-year period unless the Secretary, after consultation with the affected State or States, notifies the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives that continued authorization of such project, or separable element thereof, remains needed and justified.

(b) Any project, or separable element thereof, qualifying for deauthorization under the terms of this section upon enactment of this Act or which will qualify within one year of enactment of this Act, shall not be deauthorized until such one year period has elapsed.

Sec. 204. Any feasibility survey authorized by any resolution of a committee or Act of Congress to be undertaken by the Secretary is automatically rescinded and is no longer authorized if no funds are appropriated for such survey within five full fiscal years following its approval.

Sec. 205. The second sentence of the definition of "works of improvement", contained in section 2 of Public Law 83-566, as amended, is further amended by adding after $250,000" the following: "but not more than $10,000,000, for any projects submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives: *Provided*, That any such project with an anticipated Federal cost exceeding $10,000,000 must be authorized by Act of Congress.".

SEC. 206. Section 2 of Public Law 83-566, as amended, is further amended by deleting the period and inserting a colon at the conclusion of the proviso, and adding the following: "*And provided further*, That each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives must contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the project.".

SEC. 207. The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1986, on the feasibility, the desirability, and the public interest involved in requiring that full public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to Public Law 83-566, as amended.

SEC. 208. Subsection (a) of section 134 of Public Law 94-587 is amended to read as follows:

"(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed within ninety days after enactment of the Water Resources Development Act of 1984 to institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of local interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure interests that they may go forward to construct such compatible improvements at local expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the cost and benefits of the project and assessing the local participation in the costs of such project.".

SEC. 209. (a) The Secretary shall undertake a program of research for the control of river ice, and to assist communities in breaking up such ice, which otherwise is likely to cause or aggravate flood damage or severe streambank erosion.

(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice. As part of such authority, the Secretary shall acquire necessary ice-control or ice-breaking equipment, which shall be loaned to local units of government together with operating assistance, where appropriate.

(c) For the purposes of subsections (a) and (b) of this section, the sum of $5,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

(d) To implement further the purposes of this section, the Secretary, in consultation and cooperation with local officials, is authorized and directed to undertake a demonstration program for the control of river ice at Hardwick, Vermont. The work authorized by this subsection shall be designed to minimize the danger of flooding due to ice problems in the vicinity of such community. In the design, construction, and location of ice-control structures for this project, full consideration will be given to the recreational, scenic, and environmental values of the reach of river affected by the project, in order to minimize project impacts on these values. Full opportunity shall be given to interested environmental and recreational organizations to participate in such planning. For the purposes of this subsection, the sum of $900,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sum to remain available until expended.

(e) No later than March 1, 1988, the Secretary shall report to the Congress on activities under this section.

SEC. 210. (a) The Secretary shall, upon the request of local public officials, survey the potential and methods for rehabilitating former industrial sites, millraces, and similar types of facilities already constructed for use as hydroelectric facilities. The Secretary shall, upon request, provide technical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for survey, under this section.

(b) There is authorized to be appropriated to the Secretary, to implement this section, the sum of $5,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

SEC. 211. Section 221(b) of the Flood Control Act of 1970 (Public Law 91–611) is amended by deleting the period at the end thereof, inserting a colon, and adding the following: "*Provided*, That where the non-Federal interest is the State itself, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with State constitutional limitations.".

SEC. 212. Notwithstanding any other provision of law, construction on any project, or separable element thereof, authorized in this Act and under the responsibility of the Secretary shall not commence until the project has been studied by the Chief of Engineers and reported favorably thereon.

SEC. 213. Subject to the provisions and requirements of title VI of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of the enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved, and by reason of increases in land costs.

SEC. 214. The Secretary shall not require, under section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889), and the Federal Water Project Recreation Act, non-Federal interests to assume operation and maintenance of any recreational facility operated by the Secretary at any water resources project as a condition to the construction of new recreational facilities at such project or any other water resources project.

SEC. 215. (a) The Secretary may enter into a contract providing for the recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries.

(b) Cost recovery pursuant to the provisions of this section shall be deemed to meet cost recovery requirements of other provisions of Federal law if the economic study required by subsection (c) of this section demonstrates that income to the Federal Government equals or exceeds that required over the term of repayment required by that cost recovery provision.

(c) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

SEC. 216. Section 202 of the Flood Control Act of 1968 (Public Law 90–483) shall apply to all projects authorized by this Act.

SEC. 217. It is the sense of the Congress that the parties to various lawsuits that have been filed concerning the issuance of Federal permits necessary for the construction of a coal slurry pipeline development which would use Missouri River water, should work to conclude such suits as expeditiously as possible consistent with the rights and interests of all the parties, and that all parties to such suits should act in a fair and reasonable manner.

SEC. 218. (a) Notwithstanding any other provision of law, the Secretary shall not initiate the construction of any water resources project, or separable element thereof, if such project has been modified to increase any of the following project parameters by more than 25 per centum:

(1) acreage of land acquisition;

(2) linear miles of stream channel inundated;

(3) width of depth of any navigation channel;

(4) displacement of dwelling units;

(5) hydroelectric generating capacity; or

(6) linear miles of stream channelization.

(b) Not later than one hundred and eighty days after a water resource project is proposed by the Secretary to be modified in excess of the limitation described in subsection (a) of this section, the Secretary shall prepare and transmit to Congress a report identifying such project and describing the extent of the proposed modification, together with his recommendations thereon, accompanied by the views of other appropriate Federal and non-Federal agencies.

SEC. 219. (a) The Congress finds that—

(1) the Ogallala aquifer lies beneath, and provides needed water supplies to, the six States of the High Plains Region: Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas;

(2) the High Plains region has become an important source of agricultural commodities and livestock for domestic and international markets, providing 15 per centum of the Nation's supply of wheat, corn, feed grains, sorghum, and cotton, plus 38 per centum of the value of livestock raised in the United States; and

(3) annual precipitation in the High Plains region ranges from fifteen to twenty-two inches, providing inadequate supplies of surface water and recharging of the Ogallala aquifer needed to sustain the agricultural productivity and economic vitality of the High Plains region.

(b) It is, therefore, the purpose of this section to establish a comprehensive research and development program to assist those portions of the High Plains region dependent on water from the Ogallala aquifer to—

(1) plan for the development of an adequate supply of water in the region;

(2) develop and provide information and technical assistance concerning water-conservation management practices to agricultural producers in the region;

(3) examine alternatives for the development of an adequate supply of water for the region; and

(4) develop water-conservation management practices which are efficient for agricultural producers in the region.

(c) The Water Resources Research Act (Public Law 98–242) is amended by adding at the end thereof the following new title:

"TITLE III—OGALLALA AQUIFER RESEARCH AND DEVELOPMENT

"SEC. 301. (a) There is hereby established the High Plains Study Council composed of—

"(1) the Governor of each State of the High Plains region (defined for the purposes of this title as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, and referred to hereinafter in this title as the 'High Plains region'), or a designee of the Governor;

"(2) a representative of the Department of Agriculture; and

"(3) a representative of the Secretary.

"(b) The Council established pursuant to this section shall—

"(1) review research work being performed by each State committee established under section 302 of this Act; and

"(2) coordinate such research efforts to avoid duplication of research and to assist in the development of research plans within each State of the High Plains region that will benefit the research needs of the entire region.

"SEC. 302. (a) The Secretary shall establish within each State of the High Plains region an Ogallala aquifer technical advisory committee (hereinafter in this title referred to as the 'State committee'). Each State committee shall be composed of no more than seven members, including—

"(1) a representative of the United States Department of Agriculture;

"(2) a representative of the Secretary; and

"(3) at the appointment of the Governor of the State, five representatives from agencies of that State having jurisdiction over water resources, the agricultural community, the State Water Research Institute (as designated under this Act), and others with a special interest or expertise in water resources.

"(b) The State committee established pursuant to subsection (a) of this section shall—

"(1) review existing State laws and institutions concerning water management and, where appropriate, recommend changes to improve State or local management capabilities and more efficiently use the waters of such State, if such a review is not already being undertaken by the State;

"(2) establish, in coordination with other State committees, State priorities for research and demonstration projects involving water resources; and

"(3) provide public information, education, extension, and technical assistance on the need for water conservation and information on proven and cost-effective water management.

"(c) Each State committee established pursuant to this section shall elect a chairman, and shall meet at least once every three months at the call of the chairman, unless the chairman determines, after consultation with a majority of the members of the committee, that such a meeting is not necessary to achieve the purposes of this section.

"SEC. 303. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated for this section for research in—

"(1) water-use efficiency;

"(2) cultural methods;

"(3) irrigation technologies;

"(4) water-efficient crops; and

"(5) water and soil conservation.

Funds distributed under this section shall be allocated to each State committee for use by institution of higher education within each State. To qualify for funds under this section an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"SEC. 304. The Secretary shall annually divide funds authorized to be appropriated under this section among the States of the High Plains region for research into—

"(1) precipitation management;

"(2) weather modification;

"(3) aquifer recharge opportunities;

"(4) saline water uses;

"(5) desalinization technologies;

"(6) salt tolerant crops; and

"(7) ground water recovery.

Funds distributed under this section shall be allocated by the Secretary to the State committee for distribution to institutions of higher education within such State. To qualify for a grant under this section, an institution of higher education shall submit a research proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"SEC. 305. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated under this section for grants to farmers for demonstration projects for—

"(1) water-efficient irrigation technologies and practices;

"(2) soil and water conservation management systems; and

"(3) the growing and marketing of more water-efficient crops.

Grants under this section shall be made by each State committee in amounts not to exceed 85 per centum of the cost of each demonstration project. To qualify for a grant under this section, a farmer shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed project. Proposals shall be selected by the State committee on the basis of merit. Each State committee shall monitor each demonstration project to assure proper implementation and make the results of the project available to other State committees.

"SEC. 306. The Secretary, acting through the United States Geological Survey and in cooperation with the States of the High Plains region, is authorized and directed to monitor the levels of the Ogallala aquifer, and report annually to Congress.

"SEC. 307. Not later than one year after the date of enactment of this title, and at intervals of one year thereafter, the Secretary shall prepare and transmit to the Congress a report on activities undertaken under this title.

"SEC. 308. (a) For each of the fiscal years ending September 30, 1986, through September 30, 1990, the following sums are authorized to be appropriated to the Secretary to implement the following sections of this title, and such sums shall remain available until expended:

"(1) $500,000 for the purposes of section 302;

"(2) $6,000,000 for the purposes of section 303;

"(3) $2,000,000 for the purposes of section 304;

"(4) $2,000,000 for the purposes of section 305; and

"(5) $500,000 for the purposes of section 306.

"(b) Funds made available under this title for distribution to the States of the High Plains region shall be distributed equally among the States.".

SEC. 220. (a) The Secretary is authorized to make grants to States for the establishment and operation of programs to promote water conservation and nonstructural flood control alternatives. To qualify to receive such a grant, a State shall establish or augment an office and program to—

(1) publicize the range of nonstructural flood control methods, including, but not limited to, flood proofing of structures, flood plain management, greenbelts along rivers and streams, protection of upstream wetland or recharge areas, relocation of structures out of the flood plain, and flood warning systems; and

(2) promote increased efficiency of water use in the municipal, industrial, and agricultural sectors by

publicizing the range of methods which help save water such as water-saving plumbing fixtures, revised rate structures, plumbing code alterations, outdoor water-use plans, innovative landscaping, recycling techniques, and other measures.

(b) Funds provided under this section shall not be used to develop or implement plans for dams, stream channelization or dredging, or any other structural measures for river control.

(c)(1) For the purposes of this section, the word "States" includes Puerto Rico and the District of Columbia.

(2) For the purposes of this section, there is authorized to be appropriated to the Secretary, for distribution equally among the States, the sum of $50,000,000 for each of the fiscal years ending September 30, 1986, through the fiscal year ending September 30, 1990.

(d) The Secretary, not later than October 1, 1988, shall report to the Congress on activities undertaken under this section.

SEC. 221. (a) The Congress finds that increasing scientific evidence indicates the level of the oceans will rise significantly over the next seventy-five years.

(b) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in the levels of the ocean. Such study shall include, but is not limited to—

(1) an assessment of the probability and the extent of coastal flooding and erosion;

(2) an appraisal of various strategies for managing relocation, disinvestment, and reinvestment in coastal communities exposed to coastal flooding and erosion;

(3) a summary of the legal and institutional impact of rising sea level on riparian lands; and,

(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects.

(c) Within three years after the date of enactment of this Act, the Secretary shall transmit the study prepared pursuant to subsection (b) of this section, together with supporting documentation and the recommendations of the Secretary on such study, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) For the purposes of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending

September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

SEC. 222. During the design of each water resources project which has a cost in excess of $10,000,000 and which was authorized prior to, in, or subsequent to this Act and undertaken by the Secretary, on which construction has not been initiated as of the date of enactment of this Act, the Secretary shall require a review of the cost effectiveness of such design. The review shall employ cost control techniques which will ensure that such project is designed in the most cost-effective way for the life of the project.

SEC. 223. (a) In the case of any water resources preauthorization study undertaken by the Secretary, the Secretary shall prepare a feasibility report. Such feasibility report shall describe, for each alternative analyzed, the national economic development benefits and costs, the environmental quality impacts, and other impacts of concern to Federal, State, local, and international entities, including appropriate levels of non-Federal financing and the ability of non-Federal interests to contribute such levels. The feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan. This subsection shall not apply to any study with respect to which a report has been submitted to Congress before the date of enactment of this Act, or for a study related to any project authorized in this Act.

(b) Before initiating any feasibility study under subsection (a) of this section, if such study had not been initiated prior to enactment of this Act, the Secretary shall first perform, at Federal expense, a reconnaissance of the water resources problem in order to identify potential solutions to such problem in sufficient detail to enable the Secretary to determine whether or not planning to develop a project should proceed to the preparation of a feasibility report. Such reconnaissance shall include a preliminary analysis of the Federal interest, costs, benefits, environmental impacts of such project, and an estimate of the costs of preparing the feasibility report. The duration of a reconnaissance shall normally be no more than twelve months, but in all cases is to be limited to eighteen months.

(c)(1) The Secretary shall not initiate any feasibility study after the date of enactment of this Act until appropriate non-Federal interests agree, by contract, to contribute 50 per centum of the cost for such study during the period of such study. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies or other inkind services necessary to prepare the feasibility report.

(2) This subsection shall not apply to any water resources study primarily designed for the purposes of navigational improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

SEC. 224. (a)(1) In the case of any water resources project authorized to be constructed by the Secretary in this Act, or authorized to be constructed by the Secretary prior or subsequent to the date of enactment of this Act, construction of which has not commenced as of the date of enactment of this Act, and which necessitates the mitigation of fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate losses to fish and wildlife, as a result of such project, such mitigation, including acquisition of the lands or interests (1) shall be undertaken or acquired before any construction of the project (other than such acquisition) commences, or (2) shall be undertaken or acquired concurrently with lands and interests in lands for project purposes (other than mitigation of fish and wildlife losses), whichever the Secretary determines is appropriate.

(2) For the purposes of this subsection, any project on which more than 50 per centum of the land needed for the project, exclusive of mitigation lands, has been acquired shall be deemed to have commenced construction under this subsection.

(b)(1) After consultation with appropriate Federal and non-Federal agencies, the Secretary is authorized to mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed, to the extent that such mitigation features cost no more than $7,500,000 per project. Such mitigation may include the acquisition of lands, or interests therein: *Provided*, That acquisition under this paragraph shall not be by condemnation in the case of projects completed as of the date of enactment of this Act or on which at least 10 per centum of the physical construction on the project has been completed as of the date of enactment of this Act: *Provided*, That acquisition of water, or interests therein, under this paragraph, shall not be by condemnation. The Secretary, shall, under the terms of this paragraph, obligate no more than $40,000,000 in any fiscal year.

(2) Whenever after his review the Secretary determines that such mitigation features under this subsection are anticipated to cost more than $7,500,000 per project or costs less than $7,500,000 per project and are likely to require condemnation under the proviso in paragraph (1) of this subsection, the Secretary shall transmit to Congress a report on such proposed modification, together with his recommendations.

(c) Costs incurred to mitigate damages to fish and wildlife under the terms of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures, and shall be subject to cost sharing or reimbursement to the same extent as such other project costs are shared or reimbursed: *Provided, however,* That when such costs are covered by contracts entered into prior to the date of enactment of this Act, such costs shall not be recovered without the consent of the non-Federal interests or until such contracts are complied with or renegotiated.

(d) After the date of enactment of this Act, the Secretary shall not submit any proposal for the authorization of any water resources project to the Congress unless such report contains (1) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (2) a determination by the Secretary that such project will have negligible adverse impact on fish and wildlife. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.

(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the costs of such enhancement shall be a Federal cost when such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, anadromous fish, or when such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.). When benefits of enhancement do not qualify under the preceding sentence, 25 per centum of such enhancement costs shall be provided by non-Federal interests under a schedule of reimbursement determined by the Secretary, except that when benefits are limited to a single State, such non-Federal interests shall provide 33⅓ per centum of such costs.

(f) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing herein is intended to affect that Act.

SEC. 225. (a) The Secretary is authorized to plan, design, and construct streambank erosion control projects not specifically authorized by Congress when, in the opinion of the Secretary, such work is economically feasible and environmentally acceptable. Prior to construction of any projects for this purpose, non-Federal interests shall agree to provide, without cost to the United States, all lands, easements, and rights-of-way necessary for construction and subsequent operation of the project; hold and save the United States free from damages due to construction, operation, and maintenance of the project except damages due to the fault or negligence of the United States or its contractors; and operate and maintain the project upon completion.

(b) For the purposes of this section, the sum of $15,000,000 is authorized to be appropriated to the Secretary for each of the fiscal years beginning with the fiscal year ending September 30, 1986. Not more than $2,000,000 shall be allotted for the construction of a project under this section at any single locality and such amount shall be sufficient to complete Federal participation in the project.

SEC. 226. (a) The Congress finds that it is necessary and cost effective to encourage as many bidders as possible for contracts to be let by the Secretary, and it is therefore the policy of Congress to direct the Secretary to prepare any proposal for the construction of a civil works project in a manner that assures, to the greatest extent reasonable, that no potential bidder shall be precluded from competing fairly for such contract because of the size of such bidder.

(b) The Secretary is further directed not to require that contractors on civil works construction projects under his direction be required to perform recordkeeping that is, by law or regulations, the responsibility of the Secretary.

TITLE III—PROJECT PROVISIONS

SEC. 301. (a) The Secretary is authorized and directed to take such action as may be necessary at a cost of $4,118,000, and substantially in accordance with the study directed by the district engineer and dated July 20, 1981, to correct erosion problems along the banks of the Warrior River in order to protect Mound State Park, near Moundville, Alabama.

(b) The Secretary is authorized to preserve and protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama, by instituting bank stabilization measures, in accordance with alternative B contained in the district engineer's design supplement report entitled "Jones Bluff Reservoir, Alabama River, Alabama, Fort Toulouse, Design Report, National Historic Landmark", dated July 1975, at a cost of $15,400,000 (October 1982).

(c) The Secretary in order to protect the cultural, economic, environmental, and historical resources of Tangier Island, Virginia, located in Chesapeake Bay, is authorized and directed to design and construct a structure approximately eight thousand two hundred feet in length on the western shore of Tangier Island, adequate to protect such island from further erosion at a cost of $5,400,000.

(d) Prior to any construction under this section, non-Federal interests shall provide without cost to the United States all necessary lands, easements, rights-of-way, and relocations, agree to operate and maintain the structures after construction, and hold and save the United States free from damages due to the construction works.

(e) Notwithstanding the provisions of this section, the Secretary shall give priority in the allocation of funds for design and construction of projects for the purposes of erosion control to projects authorized prior to the enactment of this Act.

SEC. 302. The project for hurricane-flood protection and beach erosion control along the Delaware Coast from Cape Henlopen to Fenwick Island at the Delaware-Maryland State Line, authorized by section 203 of the Flood Control Act of 1968 (Public Law 90-483), is hereby modified by deleting hurricane-flood protection and authorizing the construction of sand bypass facilities and stone revetment erosion control measures at Indian River Inlet, Delaware, as described in the reevaluation report of the Philadelphia district engineer, dated January 1984, at a Federal cost for such additional facilities of $4,000,000 (October 1983): *Provided, however,* That project costs shall be allocated under the terms of section 111 of Public Law 90-483, if that is determined by the

Secretary of the Army, acting through the Chief of Engineers, to be appropriate.

SEC. 303. (a) The Secretary is authorized to construct, at Federal expense, a set of emergency gates in the conduit of the Abiquiu Dam, New Mexico, to increase safety and enhance flood and sediment control: *Provided*, That such feature, which was eliminated during original construction due to cost constraints, shall be considered as completing the original design concept for the project.

(b) For purposes of this section, the sum of $2,500,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sums to remain available until expended.

SEC. 304. The Secretary shall promptly transfer to the responsibility of the Corps of Engineers district engineer in Albuquerque, New Mexico, those portions of the State of New Mexico that, as of the date of enactment of this Act, are under the responsibility of the district engineers in Sacramento, California, and Los Angeles, California.

SEC. 305. The Waterbury, Vermont, project in the Winooski River Basin, authorized for modification in section 10 of the 1944 Flood Control Act, approved as Public Law 78–534 of December 22, 1944, is hereby further modified to provide that any major rehabilitation of such project to terminate abnormal seepage through or under the dam and to restore the concrete work on such dam shall be undertaken by the Secretary. Nothing in this section shall be construed as altering the conditions established in the Federal Power Commission license numbered 2090, issued on September 16, 1954.

SEC. 306. The city waterway navigation channel project, Tacoma Harbor, Washington, authorized by the first section of the River and Harbor Act of June 13, 1902 (32 Stat. 347), is hereby modified to direct the Secretary to redefine the boundaries of such project in accordance with the recommendations contained in appendix B of the feasibility report of the Seattle district engineer, dated November 1981.

SEC. 307. (a) The Secretary, in cooperation with the government of the Trust Territory of the Pacific Islands, is hereby authorized and directed to study and draft plans for development, utilization, and conservation of water and related land resources of such territory.

(b) The study authorized by this section shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and wastewater management facilities systems, general recreational facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental improvement and economic and human resources development. Such studies shall also be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

(c) There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, a sum of $500,000 to carry out the provisions of this section.

SEC. 308. The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 641) is amended by inserting "or water supply" after "irrigation".

SEC. 309. The Pick-Sloan Missouri Basin Program shall be prosecuted, as authorized and in accordance with applicable laws including the requirements for economic feasibility, to its ultimate development on an equitable basis as rapidly as may be practicable, within the limits of available funds and the cost recovery and repayment principles established by Senate Report Numbered 470 and House of Representatives Report Numbered 282, Eighty-ninth Congress, first session.

SEC. 310. The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal interests, shall be the responsibility of the Secretary: *Provided*, That non-Federal interests shall pay the initial $35,000 in cash or materials, of any such cost expended in any one year.

SEC. 311. The project for flood protection for the Rio Grande Floodway, Truth or Consequences Unit, New Mexico, authorized by the Flood Control Acts of 1948 and 1950, is hereby modified to provide that the Secretary is authorized to construct a flood control dam on Cuchillo Negro Creek, a tributary of the Rio Grande, in lieu of the authorized floodway.

SEC. 312. (a)(1) The Congress finds that the irrigation ditch systems in New Mexico, known as the Acequia systems, date from the eighteenth century, and that these early engineering works have significance in the settlement and development of the western portion of the United States.

(2) The Congress, therefore, declares that the restoration and preservation of the Acequia systems has cultural and historic values, as well as economic values, to the region.

(b) The Secretary is authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore the river diversion structures and associated canals attendant to the operations of the community ditch and Acequia systems in New Mexico that are declared to be a political subdivision of the State of New Mexico: *Provided*, That the State of New Mexico, or other non-Federal interests, shall pay 20 per centum of the cost of any work undertaken under this section.

(c) For the fiscal year ending September 30, 1986, and thereafter, the sum of $40,000,000 is authorized to be appropriated to the Secretary for the purposes of subsection (b) of this section, such sums to remain available until expended.

(d) The Secretary is further authorized and directed to consider the historic Acequia systems (community ditches) of the Southwestern United States as public entities, if these systems are chartered by the respective State laws as political subdivisions of that State. The public entity status will allow the officials of these Acequia systems to enter into agreements and serve as local sponsors of water-related projects of the Secretary.

SEC. 313. (a) The Secretary is authorized to implement a program of research in order to demonstrate the cropland irrigation and conservation techniques described in the report issued by the New England division engineer, dated May 1980, for the Saint John River Basin, Maine.

(b) For the purposes of this section, there is authorized to be appropriated to the Secretary the sums of $1,825,000 in the fiscal year ending September 30, 1986, $820,000 in the fiscal year ending September 30, 1987, and $785,000 for the fiscal year ending September 30, 1988, such sums to remain available until expended.

SEC. 314. (a) Bank protection activities conducted under the Rio Grande Bank protection project pursuant to the Act of April 25, 1945 (59 Stat. 89), may be undertaken in Starr County, Texas, notwithstanding any provision of such Act establishing the counties in which such bank protection activities may be undertaken.

(b) Any bank protection activity undertaken in Starr County, Texas, pursuant to subsection (a) of this section shall be—

(1) in accordance with such specifications as may be prepared for such purpose by the International Boundary and Water Commission, United States and Mexico; and

(2) except as provided in subsection (a) of this section, subject to the terms and conditions generally applicable to activities conducted under the Rio Grande Bank protection project.

SEC. 315. (a) The Secretary, upon completion of any necessary recordation of the survey and/or plat of each townsite specified under this section, is authorized to—

(1) sell those lands and improvements in each townsite which are suitable for residential, commercial, or industrial use, all in accordance with the provisions of subsection (b) of this section;

(2) transfer, without cost, municipal facilities to the appropriate local government entity or entitiers; and

(3) transfer, without cost, all school buildings, facilities, related equipment, and land used for educational purposes to the appropriate school district.

(b)(1) All property authorized to be sold, at fair market value, under this section shall be offered for sale in accordance with the following:

(A) First preference shall be given to residents of improved residential properties within a townsite or to an operator of a commercial concession within a townsite for a period of thirty days to purchase the property in which they so reside or operate.

(B) In lieu thereof, said resident or operator shall have the preference, denoted as the second preference, to purchase another available improved residential or commercial lot, or an unimproved residential or commercial lot, in the same townsite for a period of thirty days which may, in the discretion of the Secretary, run concurrently with that in (A) above.

(C) Thereafter, for a period of thirty days, a preference, denoted the third preference, to purchase an available residential lot, improved or unimproved, shall be given, without difference or distinction, to project-connected employees who are eligible to be tenants of Federal housing in a townsite, to any public employees who work in a townsite, and to retired employees or their surviving spouses who, during their years of employment, lived in one of the townsites.

(D) Subsequent thereto, for an additional thirty-day period, a preference, denoted the fourth preference, to purchase improved residential property in a townsite shall be given to any person, corporation or agency agreeing to lease said property to a person or persons who has elected not to exercise a preference to purchase property under (A) or (B) above.

(E) After all preference rights have expired, the remaining property which, in the judgment of the Secretary, is suitable for development, shall be offered for sale to the public.

(F) The Secretary is further authorized to transfer, without cost, to a local government entity or entities any property not purchased under the preference rights set forth in subparagraphs (A) through (E) of this paragraph and any other remaining property within the townsite boundaries.

(2) The purchase of property pursuant to the first, second, or third preference right under subsection (b)(1) of this section shall render the purchaser and his/her spouse

ineligible to purchase any other property under such preferences.

(c) When financing for purchasers of residential property under subsections (b)(1)(A) through (b)(1)(E) cannot reasonably be obtained from other sources, the Secretary may accept, in partial payment of the purchase price of the residential property, notes secured by mortgages on the property, subject to such terms and conditions as he determines appropriate: *Provided*, That the interest rate charged to the purchasers will not be more favorable than that then being charged by the Farmers Home Administration for its Single Family Rural Housing Loan Program. The Secretary may sell such notes and transfer, assign, or convey the mortgages securing such notes on terms that he deems appropriate.

(d) The Secretary is further authorized to provide temporary financial assistance to the appropriate local government entity or entities for the townsites specified in this section for a period of five years, in amounts equal to the following percentages of the entity's budget for operating expenses:

First year—100 per centum;
Second year—80 per centum;
Third year—60 per centum;
Fourth year—40 per centum; and
Fifth year—20 per centum.

(e) The Secretary is hereby authorized to perform those acts necessary to delegate authority, to prescribe such rules and regulations, and to establish such terms and conditions as he may deem appropriate for the purpose of carrying out the provisions and objectives of this section.

(f)(1) For the purposes of this section "townsite" means—

(A) the area referred to as Riverdale, North Dakota, containing eight hundred and ninety-two acres, more or less, as depicted on drawing numbered MGR160-2E1, dated November 10, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska; and

(B) the area referred to as Pickstown, South Dakota, containing three hundred and ninety-three acres, more or less, as depicted on drawing numbered MR315-2E1, dated November 3, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

(2) For the purposes of this section, the terms—

(A) "local government entity" shall mean any public or quasi-public organization, including an incorporated municipality, that in the judgment of the Secretary would be able to provide any or all of those public facilities or services essential to the operation of the townsite; and

(B) "municipal facilities" shall include fire and police protection systems, waste treatment plants, water treatment and distribution facilities, parks, streets and roads, cemeteries, power distribution systems, municipal government buildings, and other property suitable for use for local municipal purposes, together with underlying lands, easements, and rights-of-way, as well as equipment, materials, and supplies therefor.

SEC. 316. (a)(1) To improve water quality and fulfill the goals of the Clean Lakes Program established in section 314 of the Clean Water Act, the Secretary is authorized to initiate a demonstration program to remove excess silt from Lake Herman, Lake County, South Dakota.

(2) For the purpose of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $5,000,000, such sum to remain available until expended.

(b) The Secretary is authorized and directed to undertake a demonstration project for the removal of silt and aquatic growth, in Lake Worth, Tarrant County, Texas, to construct silt traps and to provide other devices or equipment to prevent and abate the further deposit of sediment in Lake

Worth, and to use the dredged material in the reclamation of despoiled land, and other actions necessary to the success of the demonstration, all at full Federal expense and at a cost of $1,750,000 (October 1983).

(c) The Secretary is authorized and directed to conduct mitigation activities recommended in the 1982 Environmental Protection Agency diagnostic feasibility study for Gorton's Pond in Warwick, Rhode Island. Activities will include the installation of retention basins, the dredging of inlets and outlets in recommended areas and the disposal of dredge material, and weed harvesting and nutrient inactivation. For purposes of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $730,000, such sum to remain available until expended.

SEC. 317. (a) The Secretary, after consultation with the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other appropriate governmental agencies, and the National Research Council of the National Academy of Sciences, is authorized and directed to undertake studies to identify the impacts on the United States of potential Canadian tidal power development in the Bay of Fundy, and submit such studies to the appropriate committees of the Congress.

(b) The Secretary shall conduct the studies authorized in subsection (a) of this section in two phases:

(1) Studies to be completed not later than October 1, 1986, to (A) identify effects of any such projects on tidal ranges and resulting impacts to beaches and estuarine areas, and (B) identify further studies which would be needed to meet the requirements of paragraph (2) of this subsection; and

(2) Studies to be completed not later than October 1, 1989, to (A) determine further environmental, social, economic, and institutional impacts of such tidal power development, and (B) determine what measures could be taken in Canada and the United States to offset or minimize any adverse impacts of such development on the United States.

(c) In the fiscal year ending September 30, 1986, or in any fiscal year thereafter, there is authorized to be appropriated to the Secretary the sum of $1,100,000 for the purposes of subsection (b)(1) of this section, and the sum of $8,900,000 for the purposes of subsection (b)(2) of this section, such sums to remain available until expended.

SEC. 318. (a)(1) Downstream recreation on the Gauley River is declared to be an additional project purpose of the Summerville Lake project, West Virginia, under the direction of the Secretary. Releases at times and levels (minimum two thousand four hundred cubic feet per second) suitable for such recreation shall commence on the first weekend after Labor Day of each year and continue during each weekend thereafter (and during such weekday periods as the Secretary finds appropriate) for approximately five weeks.

(2) Releases shall also be made at other times during the year as appropriate: *Provided,* That such releases are not injurious to other purposes of the Summerville Lake project. The Secretary shall schedule such releases as early as practical and provide adequate advance public notice of such whitewater release.

(b) The Secretary may temporarily suspend (for such period as may be necessary) or modify any release required under subsection (a)(1) of this section or scheduled under subsection (a)(2) of this section when necessary for purposes of flood control or any other project purpose, or for reasons of public health and safety.

SEC. 319. The three flood water control structures on the Johns Creek tributary and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin, Tennessee, are authorized to be constructed in accordance with the recommendations contained in the joint report of the district engineer and the State conservationist contained in Senate Document 95-96, at a Federal cost of $16,663,300 (June 1981).

SEC. 320. Subject to the provisions of section 212 of this Act, the Secretary is authorized to participate with appropriate non-Federal sponsors in a project to demonstrate, on an expedited basis, the feasibility of non-Federal cost sharing for rural flood protection under the provisions of sections 208 and 215 and title VI of this Act. Such project shall consist of channel restoration and improvements on the James River in South Dakota, and may include consideration of offstream storage, small impoundments on tributaries, and other features identified by the Secretary to alleviate flood damage and to regulate flows on such river, at a Federal cost not to exceed $20,000,000: *Provided*, That the Secretary shall report to Congress no later than September 30, 1987, on the extent to which additional features may be required to alleviate flood damage and regulate flows on such river.

SEC. 321. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall be initiated in the Red River Basin in accordance with the recommendations regarding general design memorandum numbered 25 by the director of civil works on behalf of the Chief of Engineers dated August 8, 1977.".

SEC. 322. The project on Milk River for local flood protection at Havre, Montana, authorized by section 10 of the

Flood Control Act approved December 22, 1944 (58 Stat. 897), is hereby modified to authorize the Secretary to reconstruct or replace, whichever he determines necessary and appropriate, the water supply intake weir of the city of Havre, Montana, at a cost of $1,400,000.

SEC. 323. The Secretary is authorized and directed to improve public access to, and lessen a health and safety hazard, at Pearson-Skubitz Big Hill Lake, Kansas, by upgrading existing roads to the extent feasible and acquiring additional rights-of-way and constructing new roads as required, at a cost of $1,800,000 (October 1983).

SEC. 324. That portion of the Hudson River in the New York Bay lying within the area described in Senate Report 98–340 for section 326 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act.

SEC. 325. (a) The portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189) which is to be located on the Sangamon River, Illinois, about one mile upstream from Decatur, Illinois, and which is known as the William L. Springer Lake project is not authorized after the date of enactment of this Act.

(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, before any lands acquired by the United States for the William L. Springer Lake project referred to in subsection (a) of this section are sold or otherwise disposed of or used for any purpose other than to carry out such project, such lands shall first be made available for purchase by the city of Decatur, Illinois, at the price at which such lands were acquired by the United States: *Provided*, That such lands remain in public ownership for use for public purposes, and that if any of such lands are not so owned or used, then such lands shall revest in the United States.

SEC. 326. (a) The Big South Fork National River and Recreation Area, Tennessee and Kentucky, established pursuant to section 108 of the Water Resources Development Act of 1974 (Public Law 93–251), as amended, shall hereafter be known and designated as the "John Sherman Cooper National Recreation Area". Any reference in any law, map regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the "John Sherman Cooper National Recreation Area".

(b) Section 108(3)(2)(k) of Public Law 93–241, as amended, is amended further by striking the figure

"$103,522,000" and inserting in lieu thereof "$156,122,000".

Sec. 327. For purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (33 U.S.C. 551 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenth miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The Secretary of Transportation is authorized to reimburse the bridge owner for work done prior to the date of enactment of this section which work, under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), would be the responsibility of the United States if performed after the date of enactment of this section: *Provided,* That any reimbursement under this section shall not exceed $450,000.

Sec. 328. (a) The Secretary is authorized to undertake the following reconnaissance studies in the State of Utah in order to determine if improvements for the purposes of flood control and related purposes are economically and environmentally justified, then report on such studies to Congress:

(1) the Provo River, from the mouth of Provo Canyon to Utah Lake;

(2) the existing levees along Utah Lake from the Provo River south along Interstate Highway 15;

(3) Interstate Highway 15, adjacent to Utah Lake;

(4) Rock, Little Rock, and Slate Canyons in the city of Provo;

(5) the Bear River, its tributaries and outlets;

(6) the Weber River, its tributaries and outlets; and

(7) the Sevier River, its tributaries and outlets.

(b) For the purposes of this section, the sum of $1,600,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter.

SEC. 329. Upon the request of the State of Illinois, the Secretary shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply as is consistent with the Water Supply Act of 1958 (Public Law 85–500), until such time and in such proportion as the storage is used for water supply purposes.

Sec. 330. In addition to amounts authorized to be appropriated to carry out agreements entered into by the Secretary with the State of Illinois pursuant to section 110 of the River and Harbor Act of 1958 relating to the repair and modification of the Illinois and Mississippi Canal (Hennepin Canal), there is authorized to be appropriated to the Secretary not to exceed $15,000,000 to carry out such agreements.

Sec. 331. The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, shall hereafter be known and designated as the "Jim Rampey Recreation Area". Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such areas as the "Jim Rampey Recreation Area".

Sec. 332. (a) The Secretary is authorized, and upon the request of any appropriate State or local authority in the Washington metropolitan area in Maryland, to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at any other point on such water system, to any such appropriate State or local authority. All of the expenses of installing a connection or connections and appurtenances thereto, and any subsequent changes therein, as may be necessary to make such delivery of water, shall be paid by the requesting entity, which shall also pay those charges for the use of such water as may be determined from time to time, in advance, by the Secretary. Payments shall be made at such time and under such regulations as the Secretary may prescribe. The Secretary may revoke at any time any permit for the use of water which may have been granted.

(b) The Secretary is authorized to purchase water from any appropriate State or local authority in the Washington metropolitan area in Maryland which has completed a connection with the District of Columbia water system. The Secretary is authorized to pay charges as may be agreed upon, for the use of such water by the Secretary.

SEC. 333. Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson 2d addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreational purposes: *Provided*, That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United which shall have the right of immediate entry thereof. The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act.".

SEC. 334. The authorization for the Lake Brownwood modification project, Pecan Bayou, Texas, contained in the Flood Control Act of 1968 (Public Law 90-483), is hereby terminated.

SEC. 335. Section 56 of Public Law 93-251 is amended to read as follows: "The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate the drainage districts and owners of leveed and unleveed tracts, in Kootenai Flats, Boundry County, Idaho, for modification to facilities, including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows or water flunctuations during drawdown and power generation operations at Libby Dam, and shall compensate landowners in Kootenai Flats for erosion of their property which has occurred since commencement of the drawdown and power generation operations at Libby Dam and as a result of those operations without regard to history patterns of erosion, maintenance of existing levees, erosion that might otherwise have occurred without the construction of the dam; or any special and direct benefits to the lands within the project area as a result of the construction of Libby Dam, and shall control erosion caused by the duration of higher flows of water fluctuation during the drawdown and power generation operations at Libby Dam, except that the total of all such erosion compensation shall not exceed $1,500,000."

TITLE IV—DAM SAFETY

SEC. 401. (a) Section 1 of Public Law 92-367 (86 Stat. 506) is amended by replacing the final period with a comma and inserting the following after the comma: "unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure.".

(b) Public Law 92-367 is further amended by inserting after section 6 the following sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereafter in this Act referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990. Sums appropriated under this section shall be distributed annually among those

States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

"(1) a procedure, whereby, prior to any construction the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been constructed and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every five years, except that such inspections shall be required at least every three years for any dam the failure of which is likely to result in the loss of human life;

"(4) a procedure for more detailed and frequent safety inspections, when warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary emergency funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 10 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. Not later than eighteen months after enactment of the Dam Safety Act of 1984, the Director of the Federal Emergency Management Agency shall report to the Congress on the need for and possible effects of a federally sponsored program of reinsurance or guarantees of insurance for owners of dams. This report shall include information on a variety of possible Federal reinsurance or guarantees programs and their cost, possible effects such a program or programs might have on the private reinsurance business, and the number of dam owners possibly affected by such a program.

"SEC. 10. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter in this Act referred to as the 'Board'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Board is authorized to hire necessary staff and shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress.

The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

"(b) The Board shall also study the need for a Federal loan program to assist the owners of non-Federal dams in rehabilitating such structures for safety deficiencies. This study shall include a quantitative assessment of the availability of funds from existing Federal programs and all other sources for dam rehabilitation, a quantitative assessment of the need for such funds, and an analysis of any impediments which are found to the utilization of existing Federal sources of funds for this purpose.

"(c) The Board shall consist of nine members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus four members, appointed by the President for periods of four years, on a rotating basis, who are not employees of the United States. At least two members of the Board shall be employees of the States having an approved program under section 8 of this Act. The Chairman of the

Board shall be selected from among those members who are not employees of the United States.

"SEC. 11. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 12. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1986, and $500,000 during each of the fiscal years ending September 30, 1987, through September 30, 1990.

"SEC. 13. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States and the Congress of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

"SEC. 14. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.".

"SEC. 402. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

"SEC. 403. This title shall be known as the 'Dam Safety Act of 1985'.".

TITLE V—INLAND NAVIGATION

SEC. 501. (a) Any sums deposited in the Inland Waterway Trust Fund, established pursuant to Public Law 95-502, shall be available for obligation by the Secretary, upon his request, to be utilized for the construction of any lock and/or dam project for the purposes of commercial navigation on the inland waterways of the United States, if such construction was initiated after June 30, 1984: *Provided, however,* That such trust fund shall be the sole source of Federal funding for the commercial navigational features and components of all such projects constructed or maintained by the Secretary.

(b) For the purpose of this section, the term:

(1) "inland waterways of the United States" means those waterways and harbors authorized to be constructed or maintained by the Secretary to depths of fourteen feet or less and utilized for the purposes of commercial navigation, provided that such definition includes the Columbia River, Oregon and Washington, from Lewiston, Idaho, to the downstream side of Bonneville Lock and Dam; and

(2) "commercial navigational features and components" means those portions of a lock and/or dam project on the inland waterways of the United States that is designated and utilized primarily for the purposes of commercial navigation.

SEC. 502. The following works of improvement to the inland waterways of the United States are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the figures listed in this title shall be subject to the limitations provided under section 212 and 213 of this Act.

(1) Helena Harbor, Phillips County, Arkansas: Report of the Chief of Engineers dated October 17, 1980, at a Federal cost of $42,000,000 (October 1982);

(2) White River Navigation to Batesville, Arkansas: Report to the Chief of Engineers dated December 23, 1981, at a Federal cost of $20,500,000 (October 1982);

(3) Lake Pontchartrain, North Shore, Louisiana: Report of the Chief of Engineers dated February 14, 1979, at a Federal cost of $850,000 (October 1982);

(4) Greenville Harbor, Mississippi: Reports of the Chief of Engineers dated November 15, 1977, and February 22, 1982, at a Federal cost of $27,700,000 (October 1982);

(5) Vicksburg Harbor, Mississippi: Report of the Chief of Engineers dated August 13, 1979, at a Federal cost of $54,700,000 (October 1982);

(6) Atlantic Intracoastal Waterway Bridges, North Carolina: Report of the Chief of Engineers dated October 1, 1975, at a Federal cost of $8,000,000 (October 1982);

(7) Olcott Harbor, New York: Report of the Chief of Engineers dated June 11, 1980, at a Federal cost of $5,320,000 (October 1982);

(8) Bonneville lock and dam, Oregon and Washington-Columbia River and Tributaries Interim Report: Reports of the Chief of Engineers dated March 14, 1980, and February 10, 1981, at a Federal cost of $177,000,000 (October 1982);

(9) Memphis Harbor, Memphis, Tennessee: Report of the Chief of Engineers dated February 25, 1981, at a Federal cost of $43,000,000 (October 1982);

(10) Gallipolis locks and dam replacement, Ohio River, Ohio and West Virginia: Report of the Chief of Engineers dated April 8, 1982, at a Federal cost of $313,000,000 (October 1982);

(11) Lock and dam 7 replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $95,000,000 (October, 1983);

(12) Lock and dam 8 replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $70,750,000 (October, 1983);

(13) Saint Louis Harbor, Missouri and Illinois: Report of the Chief of Engineers dated April 30, 1984, at a Federal cost of $11,050,000 (October 1983); and

(14) Oliver lock replacement, Black Warrior-Tombigbee Rivers, Alabama: Report of the Chief of Engineers, dated September 26, 1984, at a Federal cost of $109,300,000 (October 1983).

SEC. 503. (a) The Secretary is authorized to reimburse the State of New York for 50 per centum of the cost of operating, maintaining, and rehabilitating the New York State Barge Canal: *Provided, however,* That control and operation of the canal shall continue to reside with the State of New York.

(b) For the purposes of this section, the New York State Barge Canal is defined to be—

(1) the Erie Canal, which connects the Hudson River at Waterford with the Niagara River at Tonawanda;

(2) the Oswego Canal, which connects the Erie Canal at Three Rivers with Lake Ontario at Oswego;

(3) the Champlain Canal, which connects the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall; and

(4) the Cayuga and Seneca Canals, which connect the Erie Canal at a point near Montezuma with

Cayuga and Seneca Lakes and through Cayuga Lake and Ithaca and through Seneca Lake with Montour Falls.

SEC. 504. (a) To ensure the coordinated development and enhancement of the Upper Mississippi River System, the Congress declares that the purpose of this section is to recognize such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that such System provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

(b) For purposes of this section—

(1) the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this Act referred to as the "Act of October 21, 1978"; and

(2) the terms "Upper Mississippi River System" and "System" mean those river reaches having commercial navigation channels on the following rivers: the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; the Black River, Wisconsin; the Saint Croix River, Minnesota and Wisconsin; the Illinois River and Waterway, Illinois; and the Kaskaskia River, Illinois.

(c)(1) The Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(2) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

(d)(1) The Congress hereby gives its consent to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements.

(2) Each officer or employee of the United States responsible for management of any part of the System is authorized in accordance with such officer's or employee's legal authority to assist and participate, when requested by any agency established under paragraph (1) of this subsection, in programs or deliberations of such agency.

(e)(1) Notwithstanding the provisions of Section 212 of this Act, the Secretary is authorized to provide for the engineering, design, and construction, at a Federal cost of $245,000,000 (October 1983), of a second lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri. Such second lock, shall be one hundred and ten feet by six hundred feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(f)(1) The Secretary, acting in consultation with the Secretary of Transportation and the States in the System, shall monitor traffic movements on the System for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluations so as to verify the need for future capacity expansion of the System as well as the future need for river rehabilitation and environmental enhancement.

(2) There are authorized to be appropriated to the Secretary for the first fiscal year beginning after the date of enactment of this Act, and for each of nine fiscal years following thereafter, such sums as may be necessary to carry out paragraph (1) of this subsection.

(g)(1) The Secretary of the Interior, in concert with any appropriate State agency, is authorized to undertake with respect to the Upper Mississippi River System, substantially in accordance with the recommendations of the Master Plan—

(A) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enhance, or rehabilitate acquatic and terrestrial habitats lost or threatened as a result of man-induced activities or natural factors;

(B) the implementation of a long-term resource monitoring program; and

(C) the implementation of a computerized inventory and analysis system.

(2) For the purposes of carrying out subparagraph (g)(1)(A) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $8,200,000 for the fiscal year beginning after the date of enactment of this Act, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of

this Act, and not to exceed $13,000,000 for each of the succeeding eight fiscal years.

(3) For purposes of carrying out subparagraph (g)(1)(B) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed $5,080,000 for each of the succeeding nine fiscal years.

(4) For the purposes of carrying out subparagraph (g)(1)(C) of this subsection, there are authorized to be appropriated to the Secretary of the Interior—

(A) not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this Act;

(B) not to exceed $280,000 for the second fiscal year beginning after the date of enactment of this Act;

(C) not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this Act; and

(D) not to exceed $775,000 for each of the succeeding seven fiscal years.

(h)(1) The Secretary of the Interior, in consultation with the Secretary and working through an agency, if any, established by the States for management of the System under subsection (d) of this section, is authorized to implement a program of recreational projects for the System and to conduct an assessment of the economic benefits generated by recreational activities in the System.

(2) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $300,000 for the first and second fiscal years and $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to subsection (g)(1)(C) of this section is fully functional.

(i) None of the funds appropriated pursuant to the authorization contained in subsections (g) and (h) of this section shall be considered to be attributable to commercial navigation.

(j) This section may be cited as the "Upper Mississippi River System Management Act of 1985".

TITLE VI—COST SHARING

SEC. 601. (a) The construction of any water resource project or related land resources project authorized to be constructed by the Secretary in this Act or authorized to be constructed by the Secretary after the date of enactment of this Act, excluding any project for the purposes of navigation, shall, except as otherwise provided in this title, be initiated only after the appropriate Federal agency has entered into an agreement with a non-Federal project sponsor to share the costs of construction in accordance with the following guidelines, and agrees to pay, upon completion of project construction, 100 per centum of operation, maintenance, and rehabilitation costs:

(1) hydroelectric power: construction shall not be initiated until the appropriate Power Marketing Administrator designated pursuant to section 302 of the Department of Energy Organization Act (Public Law 95–91) determines that the hydroelectric power expected to be generated and not required in the operation of the project can, under the applicable Federal power marketing law, be marketed so that, in addition to 100 per centum of operation, maintenance and replacement costs, 100 per centum of the capital investment allo-

cated to the purpose of hydroelectric power (with interest at rates established pursuant to or prescribed by applicable law) and any other costs assigned in accordance with law for return from power revenues can be returned within the period or periods established for the return of such costs by or pursuant to such applicable Federal power marketing law: *Provided,* That contracts for the sale of power by the appropriate Power Marketing Administrator may provide for an advance of funds by the purchaser for transfer to the Federal agency constructing the project, and such advances shall be available for construction of the project;

(2) municipal and industrial water: 100 per centum;

(3) recreation: 50 per centum of joint and separable costs;

(4) beach erosion control; not less than 50 per centum for publicly owned shores and not less than 100 per centum for privately owned shores within project limits; and

(5) urban and rural flood protection, rural drainage, or agricultural water supplies: not less than 35 per centum, or, for projects covered by section 3 of the Flood Control Act of 1936, as amended, the value of lands, easements, right-of-way and relocations required

for project construction, whichever is greater, subject to an ability to pay determination under section 603 of this title: *Provided,* That, in the case of projects authorized to be constructed in reclamation States which provide for agricultural water supplies, such projects shall also be subject to Federal reclamation law as amended.

(b) Any cost-sharing agreement for the construction of any water or related land resources project involving two or more purposes may provide for an allocation of costs to each purpose which is greater or lesser than the actual costs associated with each purpose, but the total non-Federal contribution for any such multipurpose project shall equal the amount determined by adding together the cost-sharing and repayment requirements calculated under this section for each purpose separately.

SEC. 602. (a) Payment in kind may be accepted for any non-Federal contribution under this Act, except that, notwithstanding any other provision of this Act, 5 per centum of the cost of any project (other than a project or component of a project for commercial navigation, agricultural water supply, or hydroelectric power generation) undertaken by the Secretary on which construction is initiated after the date of enactment of this Act shall be paid in cash by the non-Federal project sponsor during construction of such project.

(b) To the extent that urban and rural flood protection benefits are provided by nonstructural measures, a cash contribution shall not be required of non-Federal project sponsors.

(c) Except as otherwise provided in this title or existing law, the appropriate Federal agency may permit the full non-Federal contribution to be made, without interest, during construction of the project or, with interest, over a period of not less than thirty years nor more than fifty years from the date of project completion.

(d) Any repayment by any non-Federal sponsor under this section shall include—

(i) the applicable rate of interest, if any, authorized by law for the project, or

(ii) when no other rate is provided by law, the rate of interest determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds for the construction of the project are first disbursed.

(e) At the request of any non-Federal private or public sponsor the appropriate Federal agency may permit such non-Federal sponsor to delay the initial payment of any non-

Federal contribution under this Act for up to one year after the date when construction is begun on the project for which such contribution is to be made.

(f) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider a non-Federal contribution of 25 per centum, including not less than 5 per centum in cash, made during construction of the project, to be in fulfillment of section 601(a)(5) of this title.

(g) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider the cost of work undertaken in accordance with section 134(a) of Public Law 94–587, as amended, by a non-Federal sponsor to be in satisfaction or partial satisfaction of the requirements of subsection (a) of this section if—

(1) the work undertaken has been previously approved by the Division Engineer of the Corps of Engineers; and

(2) the credit sought is only for non-Federal funds expended for such work.

SEC. 603. Any cost-sharing agreement under this Act with a non-Federal private or public sponsor of an urban and rural flood protection, rural drainage, or agricultural water supply project shall be subject to the ability of any such non-Federal sponsor to pay. The ability of any non-Federal sponsor to pay shall be determined by the appropriate Federal agency in accordance with any applicable law or, in the absence of applicable law, under procedure to be determined by the appropriate agency.

SEC. 604. No additional cost sharing or repayment shall be required from any non-Federal sponsor for any water or related land resources project authorized prior to the date of enactment of this Act beyond any applicable cost-sharing and repayment requirements of existing law, but construction shall not be initiated prior to the fiscal year ending September 30, 1995, on any such project or separable element thereof unless—

(a) a non-Federal sponsor agrees to pay any cost-sharing and repayment requirements associated with such project under existing law and 50 per centum of any additional cost-sharing or repayment contributions associated with such project under sections 601 and 602 of this title;

(b) such project is an uncompleted unit (or reformulation of such unit) of a comprehensive river basin program of development to be located in a State in which large acreages of land or volumes of water have been dedicated to such program for the benefit of citizens in other States and thereby denied to the use of the citizens of such State; or

(c) such project is a separable element for which construction funds were appropriated prior to January 1, 1983.

In determining priorities for development among projects authorized for development prior to the date of enactment of this Act, the appropriate Federal agencies shall consult with the States in which such projects are to be located and shall consider any priorities established by any State for the development of such projects.

TITLE VII

SEC. 701. Subject to the provisions of sections 212 and 213 and title VI of this Act, the following works of improvement of rivers and harbors and other waterways for flood control and other purposes are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated:

(a) FLOOD CONTROL.—

(1) Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $20,700,000 (October 1982);

(2) Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers dated August 10,

1979, at a Federal cost of $14,500,000 (October 1982);

(3) Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $19,700,000 (October 1982);

(4) Helena and vicinity, Arkansas: Report of the Chief of Engineers dated June 23, 1983, at a Federal cost of $11,600,000 (October 1982);

(5) Little Colorado River at Holbrook, Arizona: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $7,730,000 (October 1982);

(6) Cache Creek Basin, California: Report of the Chief of Engineers dated April 27, 1981, at a Federal cost of $21,100,000 (October 1982): *Provided*, That the Secretary acts in coordination with the State of California to assure that such project poses no danger to any component of its State park system;

(7) Redbank and Fancher Creeks, California: Report of the Chief of Engineers dated May 7, 1981, at a Federal cost of $57,200,000 (October 1982);

(8) Santa Ana River mainstem, including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at a Federal cost of $1,211,000,000 (October 1983): *Provided*, That con-

struction is restricted to the following elements of the project: Improvements at Prado Dam which limit the reservoir taking line to no greater than an elevation of five hundred and sixty-six feet; Santa Ana River Channel improvements in Orange County; improvements along Santiago Creek; improvements of the Oak Street drain; and improvement of the Mill Creek levees; features for mitigation of project effects and preservation of endangered species, and recreation features identified in the Chief of Engineers' report for these project elements;

(9) Fountain Creek, Pueblo, Colorado, phase I GDM: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $6,600,000 (October 1982);

(10) Metropolitan Denver and South Platte River and tributaries, Colorado, Wyoming, and Nebraska: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $9,080,000 (October 1982);

(11) Oates Creek, Georgia: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $8,360,000 (October 1982);

(12) Agana River, Guam: Report of the Chief of Engineers dated March 14, 1977, at a Federal cost of $5,820,000 (October 1982);

(13) Alenaio Stream, Hawaii: Report of the Chief of Engineers dated August 15, 1983, at a Federal cost of $4,579,000 (October 1982);

(14) Big Wood River and tributaries, Idaho, interim report—Little Wood River, vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers dated November 2, 1977, at a Federal cost of $3,750,000 (October 1982);

(15) North Branch of Chicago River, Illinois: Report of the Board of Engineers for Rivers and Harbors dated January 3, 1984, at a Federal cost of $11,800,000 (October 1983);

(16) Rock River at Rockford and vicinity, Illinois, Loves Park interim: Report of the Chief of Engineers dated September 15, 1980, at a Federal cost of $22,800,000 (October 1982);

(17) The project for flood control, Little Calumet River, Indiana: In accordance with plan 3A contained in the Report of the Board of Engineers for Rivers and Harbors dated November 14, 1983, at a Federal cost of $57,700,000 (October 1983), with the additional provision that the Secretary is directed to include levees and other necessary structural measures in the Gary, Indiana, portion of such project from Cline Avenue to the eastern boundary of the project;

(18) Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers dated July 22, 1977, at a Federal cost of $11,200,000;

(19) Mississippi River, Coon Rapids Dam to Ohio River Green Bay Levee and Drainage District No. 2, Iowa: Report of the Chief of Engineers dated October 21, 1981, at a Federal cost of $5,480,000;

(20) Interim report on Perry Creek, Iowa: Report of the Chief of Engineers dated February 4, 1982, at a Federal cost of $20,900,000;

(21) Halstead, Kansas: Report of the Chief of Engineers dated May 8, 1979, at a Federal cost of $6,130,000 (October 1982);

(22) Atchafalaya Basin Floodway system, Louisiana: Report of the Chief of Engineers dated February 28, 1983, at a Federal cost of $195,000,000 (October 1982);

(23) Bushley Bayou, Louisiana, phase I GDM: Reports of the Chief of Engineers dated April 30, 1980, and August 12, 1982, at a Federal cost of $42,800,000 (October 1982);

(24) Louisiana State penitentiary levee, Mississippi River: Report of the Chief of Engineers dated December 10, 1982, at a Federal cost of $20,500,000 (October 1982);

(25) Quincy Coastal Streams, Massachusetts, Town Brook interim: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $25,100,000 (October 1982);

(26) Mississippi River at St. Paul, Minnesota: Report of the Chief of Engineers dated June 16, 1983, at a Federal cost of $7,200,000 (October 1982);

(27) Redwood River at Marshall, Minnesota: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $3,130,000 (October 1982);

(28) Root River Basin, Minnesota: Report of the Chief of Engineers dated May 13, 1977, at a Federal cost of $8,150,000 (October 1982);

(29) South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers dated February 23, 1979, at a Federal cost of $77,800,000 (October 1982);

(30) Horn Lake Creek and tributaries, Including Cow Pen Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $2,450,000 (October 1982);

(31) Sowashee Creek, Mississippi: Report of the Board of Engineers for Rivers and Harbors, dated June 15, 1984, at a Federal cost of $10,910,000 (October 1983);

(32) Brush Creek and tributaries, Missouri and Kansas: Report of the Chief of Engineers dated January 3, 1983, at a Federal cost of $12,100,000;

(33) Maline Creek, Missouri: Report of the Chief of Engineers dated November 2, 1982, at a Federal cost of $37,200,000;

(34) Saint Johns Bayou and New Madrid Floodway, Missouri phase I GDM: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $69,000,000;

(35) Robinson's branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers dated October 10, 1975, at a Federal cost of $13,500,000 (October 1982);

(36) Rahway River and Van Winkles Brook at Springfield, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at a Federal cost of $12,300,000 (October 1982);

(37) Green Brook Subbasin, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $72,900,000 (October 1982);

(38) Middle Rio Grande flood protection, Bernalillo to Belen, New Mexico: Report of the Chief of En-

gineers dated June 23, 1981, at a Federal cost of $39,200,000 (October 1982): *Provided*, That the Secretary is authorized also to increase flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act;

(39) Puerco River and tributaries, Gallup, New Mexico: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $3,220,000 (October 1982);

(40) Cazenovia Creek Watershed, New York: Report of the Chief of Engineers dated September 8, 1977, at a Federal cost of $1,803,000 (October 1982);

(41) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut: Report of the Chief of Engineers dated April 4, 1979, at a Federal cost of $44,100,000 (October 1982);

(42) Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers dated June 23, 1978, at a Federal cost of $6,244,000 for Logan and $6,757,000 for Nelsonville (October 1982);

(43) Miami River, Fairfield, Ohio: Report of the Chief of Engineers dated June 23, 1980, at a Federal cost of $9,180,000 (October 1982);

(44) Miami River, Little Miami River, interim report numbered 2, West Carrollton, Holes Creek, Ohio: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $5,950,000 (October 1982);

(45) Muskingum River Basin, Ohio (Mansfield): Report of the Chief of Engineers dated February 3, 1978, at a Federal cost of $3,500,000 (October 1982);

(46) Scioto River at North Chillicothe, Ohio: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $9,070,000 (October 1982);

(47) Fry Creeks, Oklahoma: Report of the Chief of Engineers dated September 7, 1983, at a Federal cost of $8,500,000 (October 1982);

(48) Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $87,800,000 (October 1982);

(49) Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Chief of Engineers dated May 30, 1980, at a Federal cost of $40,200,000 (October 1982);

(50) Harrisburg, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated May 16, 1979, at a Federal cost of $102,000,000 (October 1982);

(51) Lock Haven, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $65,500,000 (October 1982);

(52) Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers dated January 30, 1978, at a Federal cost of $7,020,000 (October 1982);

(53) Wyoming Valley, Pennsylvania, phase I GDM: Report of the Chief of Engineers dated October 19, 1983, at a Federal cost of $212,900,000 (October 1982);

(54) Big River Reservoir, Rhode Island: Report of the Chief of Engineers dated March 9, 1983, at a Federal cost of $40,900,000 (October 1982);

(55) Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $19,200,000 (October 1982);

(56) Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers dated June 13, 1978, at a Federal cost of $75,000,000 (October 1982);

(57) Boggy Creek, Austin, Texas: Report of the Chief of Engineers dated January 19, 1981, at a Federal cost of $13,800,000 (October 1982);

(58) Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers dated July 9, 1979, at a Federal cost of $14,900,000 (October 1982);

(59) Lower Rio Grande, Texas: The project for flood control, Lower Rio Grande Basin, Texas: Report of the Board of Engineers for Rivers and Harbors, dated April 29, 1983, at a Federal cost of $114,400,000 (October 1983);

(60) James River Basin, Richmond, Virginia, phase I GDM: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $79,600,000 (October 1982);

(61) Sims Bayou, Texas: Report of the Chief of Engineers, dated April 17, 1984, at a Federal cost of $104,200,000 (October 1983);

(62) Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $19,300,000 (October 1982);

(63) Yakima Union Gap, Washington: Report of the Chief of Engineers dated May 7, 1980, at a Federal cost of $8,640,000 (October 1983);

(64) Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers dated April 20, 1984, at a Federal cost of $8,900,000 (October 1983);

(65) Upper Little Arkansas River Watershed, Kansas: Report of the Chief of Engineers dated December 15, 1983, at a Federal cost of $9,950,000 (October 1983);

(66) South Quincy Drainage and Levee District, Illinois: Report of the Chief of Engineers dated January 24, 1984, at a Federal cost of $11,100,000 (October 1983);

(67) Tonawanda Creek Watershed, New York: Report of the Chief of Engineers dated July 2, 1984, at a Federal cost of $30,900,000 (October 1983);

(68) Park River, at Grafton, North Dakota: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $126,000,000 (October 1983); and

(69) Centralia, Chehalis River and tributaries, Washington: Report of the Chief of Engineers dated June 20, 1984, at a Federal cost of $18,600,000 (October 1983);

(b) HYDROPOWER DEVELOPMENT.—

(1) Scammon Bay, Alaska (hydropower): Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $1,483,000 (October 1982);

(2) South Central Railbelt Area, Alaska, hydroelectric power, Valdez and Copper River Basin: Report of the Chief of Engineers dated October 29,

1982, at a Federal cost of $40,500,000 (October 1982);

(3) Murray Lock and Dam, hydropower, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $92,900,000 (October 1982);

(4) Arkansas River and tributaries, Arkansas and Oklahoma, hydropower, locks and dams numbered 13 and 9 and Toad Suck Ferry lock and dam (numbered 8): Report of the Chief of Engineers dated September 1, 1983, at a Federal cost of $260,300,000 (October 1982);

(5) Metropolitan Atlanta area water resources management study, Georgia: Report of the Chief of Engineers dated June 1, 1982, at a Federal cost of $24,500,000 (October 1982);

(6) W.D. Mayo lock and dam 14, hydropower, Oklahoma: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $112,100,000 (October 1982);

(7) Blue River Lake, hydroelectric power, Willamette River Basin, Oregon: Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $28,600,000 (October 1982);

(8) McNary lock and dam second powerhouse, Columbia River, Oregon and Washington, phase I GDM: Report of the Chief of Engineers dated June 24, 1981, at a Federal cost of $600,000,000 (October 1982); and

(9) Gregory County hydroelectric pumped storage facility, stages I and II, South Dakota: Report of the Chief of Engineers dated April 26, 1983, together with such additional associated multipurpose water supply and irrigation features as are generally described in the final feasibility report of the District Engineer, at a Federal cost of $1,280,000,000, not to exceed $100,000,000 of which may be used to construct such associated water supply and irrigation features: *Provided*, That the additional associated multipurpose water supply and irrigation features shall be undertaken concurrently by the Secretary of the Interior in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), as a unit of the Pick-Sloan Missouri River Basin Program: *Provided further*, That the Secretary of the Interior is authorized to undertake a feasibility study of the additional associated multipurpose water supply and irrigation features of the Gregory County hydroelectric pumped storage facility and that construction of the Gregory County hydroelectric

pumped storage facility and such additional associated multipurpose water supply and irrigation features shall not be undertaken until the Secretary of the Interior has completed the feasibility report on such additional features and submitted such report to the Congress along with his certification that, in his judgment, the benefits of such features will exceed the costs and that such additional features are physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof.

(c)(1) SHORELINE PROTECTION.—

(A) Charlotte County, Florida: Report of the Chief of Engineers dated April 2, 1982, at a Federal cost of $1,440,000 (October 1982);

(B) Indian River County, Florida: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,300,000 (October 1982);

(C) Panama City Beaches, Florida: Report of the Chief of Engineers dated July 8, 1977, at a Federal cost of $26,200,000 (October 1982);

(D) Saint Johns County, Florida: Report of the Chief of Engineers dated February 26, 1980, at a Federal cost of $7,660,000 (October 1982);

(E) Jekyll Island, Georgia: Report of the Chief of Engineers dated March 3, 1976, at a Federal cost of $5,870,000 (October 1982);

(F) Casino Beach, Illinois Shoreline, Illinois: Report of the Board of Engineers for Rivers and Harbors dated December 1, 1983, at a Federal cost of $3,290,000 (October 1983);

(G) Atlantic Coast of Maryland and Assateague Island, Virginia: Report of the Chief of Engineers dated September 29, 1981, at a Federal cost of $21,000,000 (October 1982);

(H) Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York: Report of the Chief of Engineers dated August 18, 1976, at a Federal cost of $3,300,000 (October 1982);

(I) The project for shoreline protection for the southeast shore of Maumee Bay, Lake Erie, Ohio, from Cedar Point National Wildlife Refuge to West Bay Shore Road, Oregon, Ohio: Report of the Chief of Engineers, dated July 9, 1984, at a Federal cost of $8,140,000: *Provided*, That the Secretary is further authorized to contract with the State of Ohio on the items of local cooperation for such project, which are to be assumed by the State, notwithstanding that the State may elect to make its performance of any obligation contingent upon the State legislature making the necessary appropriations and funds being allocated for the same or subject to the availability of funds on the part of the State;

(J) Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers dated October 2, 1981, at a Federal cost of $18,550,000 (October 1982);

(K) Folly Beach, South Carolina: Report of the Chief of Engineers dated March 17, 1981, at a Federal cost of $1,110,000 (October 1982);

(L) Dade County, North of Haulover Beach Park, Florida: Report of the Chief of Engineers dated December 27, 1983, at a Federal cost of $4,256,000 (October 1983);

(M) Monroe County, Florida: Report of the Chief of Engineers dated April 27, 1984, at a Federal cost of $1,549,000 (October 1983);

(N) Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers dated November 18, 1983, at a Federal cost of $7,760,000 (October 1983);

(O) Wrightsville Beach, North Carolina: Report of the Chief of Engineers dated December 19, 1983, to extend the period of Federal participation in the periodic nourishment of the existing project;

(P) Willoughby Spit and vicinity, Norfolk, Virginia: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $1,835,000 (October 1983); and

(Q) Cape May Point, New Jersey: Report of the Chief of Engineers, for beach erosion control and storm protection, dated September 30, 1975, at a Federal cost of $5,000,000 (October 1982), subject to the completion of Phase I Advanced Engineering and Design;

(2) Construction of the projects authorized in this subsection shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97–348);

(d) MITIGATION.—

(1) Fish and Wildlife Program for the Sacramento River Bank Protection project, California, first phase: Report of the Chief of Engineers dated September 1, 1981, at a Federal cost of $832,000 (October 1982);

(2) Richard B. Russell Dam and Lake, Savannah River, Georgia and South Carolina, Fish and Wildlife mitigation report: Report of the Chief of Engineers dated May 11, 1982, at a Federal cost of $18,700,000 (October 1982);

(3) Davenport, Iowa local protection project, fish and wildlife mitigation plan: Report of the Chief of Engineers dated July 9, 1979, at a Federal cost of $387,000;

(4) West Kentucky Tributaries projects, fish and wildlife mitigation plan, Obion Creek, Kentucky: Report of the Chief of Engineers dated September 16, 1980, at a Federal cost of $3,980,000 (October 1982);

(5) Downstream Measures at Harry S. Truman Dam and Reservoir, Missouri: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,000,000;

(6) Smithville Lake, Little Platte River, Missouri plan for replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at a Federal cost of $7,770,000;

(7) Cape May Inlet to Lower Township, New Jersey, phase I GDM: Report of the Chief of Engineers dated December 23, 1981, including construction of measures at Lower Township to mitigate for the erosion attributed to the existing navigation project generally in accordance with mitigation features for Lower Township of Plan B of the Phase I General Design Memorandum, titled: "Cape May Inlet to

Lower Township, New Jersey," dated August 1980, at a Federal cost of $17,000,000 (October 1982);

(8) Cooper Lake and Channels project, Texas, Report on Fish and Wildlife Mitigation: Report of the Chief of Engineers dated May 21, 1982, at a Federal cost of $7,570,000 (October 1982);

(9) Missouri River, fish and wildlife mitigation; Iowa, Nebraska, Kansas, and Missouri: Report of the Chief of Engineers dated April 24, 1984, at a Federal cost of $49,400,000 (October 1983); and

(10) Yazoo Backwater project, Mississippi, fish and wildlife mitigation report: Report of the Chief of Engineers dated July 12, 1984, at a Federal cost of $4,993,000 (October 1983);

(e) BANK STABILIZATION.—

(1) Bethel, Alaska: Report of the Chief of Engineers dated July 30, 1983, at a Federal cost of $13,780,000 (October 1982);

(f) DEMONSTRATION.—

(1) Cabin Creek, West Virginia, Demonstration Reclamation project: Report of the Chief of Engineers dated March 1, 1979, at a Federal cost of $32,800,000 (October 1982); and

(2) Lava flow control, Island of Hawaii, Hawaii: Report of the Chief of Engineers dated July 21, 1981, at a Federal cost of $3,950,000 (October 1982).

TITLE VIII—WATER SUPPLY LOANS

SEC. 801. (a) The Congress hereby finds that—

(1) many water supply systems are in deterioration and that adequate Federal authority does not exist to address the problems of existing municipal and industrial water supply systems;

(2) certain regions of the Nation are facing serious water supply problems and large quantities of water are being wasted as a result of aging and deteriorating water supply and distribution facilities;

(3) modernizing existing water supply systems is an important part of any effort to rejuvenate the Nation's cities and remove impediments to economic growth;

(4) many water supply systems have experienced difficulty in obtaining capital necessary to accomplish repairs, rehabilitations, expansions, and improvements required for efficient and reliable operation;

(5) in light of historic and continuing Federal involvement in meeting many other water supply problems, there is a national need to rehabilitate and upgrade existing water supply systems;

(6) in all regions of the country and in all circumstances in which the Federal Government is involved in providing water supply, it is essential to promote water conservation; and

(7) encouraging the use of low-flow devices in new construction, improving metering and rate schedules and leak detection programs, and adopting other water conservation methods saves water and energy.

(b) The Congress hereby declares that—

(1) the Federal Government shall provide financial assistance in the form of loans to water supply system operators;

(2) such assistance shall be directed especially to systems without alternative financing sources and systems with severe drinking water quality problems; and

(3) such assistance shall be used for, among other purposes, improved water conservation.

SEC. 802. (a) Subject to the provisions of this title, the Secretary may make loans to—

(1) any department, agency, or instrumentality of one or more State or local governments which operates a water supply system, and

(2) any person who operates a water supply system the rates and services of which are subject to regulation by a department, agency, or instrumentality

of a State government, for the purpose of repair, rehabilitation, or expansion, of such system.

(b) The Secretary shall allocate—

(1) one-half of the funds to be loaned in each fiscal year among the States in proportion to each State's population, or such lesser figure if the total amount of loans for which eligible water supply operators in a State apply is less than the sums allocated to such State; and

(2) the remainder of the funds at the discretion of the Secretary.

(c) No loan may be made under this title for any purpose not related to water supply or water conservation.

(d) No loan may be made under this title for the purpose of acquisition by an operator of a water supply system of another such system.

SEC. 803. (a) Any operator of a water supply system seeking a loan under this title shall submit an application to the Secretary for such loan in such form and manner as the Secretary may require by regulation. Applications for loans in the following fiscal year shall be submitted to the Secretary not later than March 1, 1985, and annually thereafter. Not later than September 1, 1985, and annually thereafter, the Secretary shall approve or disapprove such applications.

(b) Any application for a loan under this title shall include, among other things:

(1) a detailed plan and estimated cost of the project for which the loan is applied;

(2) a showing (A) that the applicant holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by the Secretary) and rights to the use of water pursuant to applicable State law necessary for the successful completion, operation, and maintenance of the project, and (B) that the applicant is ready, willing, and able to finance the portion of the cost of the project which will not be covered by the loan; and

(3) an assessment of the improvements the proposed project will make in supplying water for domestic commercial, and industrial purposes, as well as public purposes including fire protection and recreation.

(c) The Secretary may only make loans under this title with respect to projects which the Secretary determines are technically feasible and which constitute a reasonable financial risk.

(d) In making loans under this title, the Secretary shall give priority—

(1) to water supply systems otherwise unable to obtain financial assistance; and

(2) to water supply systems that will use the proceeds of such loans to pay the costs of installing a new system or improving an existing system to achieve compliance with the provisions of the Safe Drinking Water Act of 1974 (42 U.S.C. 300f et seq.) and regulations promulgated thereunder.

SEC. 804. (a) The Governor of any State may submit by April 1, 1985, and annually thereafter, a priority list of water supply projects in such State to be financed by loans under this title. Such list shall include the name of each project for which loan applications have been submitted to the Secretary, the priority ranking of such project, and the recommended level of financing from loans under this title.

(b) The Secretary may take into account the priority lists submitted pursuant to subsection (a) of this section in allocating funds among the candidate projects in such State.

SEC. 805. (a) The Secretary may only make loans under this title to an operator of a water supply system if the Secretary determines that, before completion of the proposed project, the operator will, to the best of the operator's ability, implement a model water conservation program or a water conservative program, suitable to local conditions, which is equivalent to a model water conservation program.

(b) For purposes of this section, the term "model water conservation program" includes the following:

(1) encouraging each community served by the water supply system to establish plumbing codes which promote water conservation in new construction;

(2) to the extent feasible and appropriate, utilizing water meters which promote water conservation;

(3) establishing water rate schedules which encourage water conservation;

(4) providing a comprehensive leak detection and repair program for water supply systems;

(5) making public information available on home and business water conservation techniques and benefits; and

(6) developing a drought contingency plan.

SEC. 806. (a) The Secretary shall enter into an agreement with each person to whom a loan is to be made under this title. Such agreement shall include the following terms, among others—

(1) the maximum amount of the loan to be made and the time and method of making funds available under the loan;

(2) an interest rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of

the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds are first disbursed;

(3) a repayment period, not to exceed thirty years, and a plan of repayment of the sums lent, plus interest; and

(4) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest, including a provision that the operator of the water supply system shall maintain adequate rates in order to be expected to meet its obligations under the agreement and to maintain, repair, and rehabilitate the project for which the loan is made.

(b) The Secretary may agree to an interest rate and a plan of repayment in accordance with section 301(b) of the Water Supply Act of 1958 (72 Stat. 319; Public Law 85–500), if the Secretary determines that terms in accordance with subsection (a) of this section would represent a severe economic burden on the recipient of the loan.

Sec. 807. Amounts of loans (including interest accruing on such loans) repaid under this title shall be deposited in the general fund of the Treasury.

SEC. 808. The Secretary shall issue such regulations and carry out such actions as may be necessary to carry out the objectives of this title.

SEC. 809. There is authorized to be appropriated to the Secretary for the purposes of this title, the sum of $200,000,000 for the fiscal year ending September 30, 1986, $400,000,000 for the fiscal year ending September 30, 1987, $600,000,000 for the fiscal year ending September 30, 1988, $700,000,000 for the fiscal year ending September 30, 1989, and $800,000,000 for the fiscal year ending September 30, 1990, such sums to remain available until expended.

SEC. 810. (a) The Secretary shall submit to Congress, no later than September 30, 1989, a report on—

(1) the characteristics of applicants for and approved recipients of loans extended under this title with respect to regional distribution, size, ownership, and other parameters;

(2) the purposes for which such loans have been used;

(3) water conservation measures that have been implemented by the recipients of such loans;

(4) the impact of such loans on the financial health of the recipients of such loans;

(5) the extent to which the needs of water supply systems, as indicated by the applications for loans under this title received by the Secretary and by other factors, are met by such loans;

(6) the contribution of State priority lists to the process of selecting projects;

(7) recommendations on the need for a continuation of the loan program established by this title after September 30, 1990, the appropriate levels of funding for subsequent fiscal years, and needed changes in the eligibility criteria, allocation of funds, or other aspects of the program; and

(8) recommendations on additional mechanisms for financing the rehabilitation and expansion of water supply systems.

(b) For the purpose of this section, there is authorized to be appropriated to the Secretary the sum of $2,000,000 for the fiscal year ending September 30, 1986, or any fiscal year thereafter, such sum to remain available until expended.

SEC. 811. Notwithstanding any other provision of law, the development, expansion, and rehabilitation of municipal and industrial water supply and distribution systems, either alone or as part of a multiple purpose project authorized in this Act or subsequent to this Act, is hereby declared to be a legitimate Federal purpose.

SEC. 812. For purposes of this title—

(1) the term "expansion", as used with respect to a water supply system, means the installation of water supply facilities necessary to increase the service capability or capacity of the water supply system;

(2) the term "rehabilitation", as used with respect to a water supply system, means the repair or replacement of components or facilities required to restore service reliability or efficiency of the water supply system;

(3) the term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(4) the term "water supply system" means the facilities used in the production and pumping of water for consumption (including, but not limited to, water storage, desalination, and other collection and purification techniques), water treatment facilities (other than sewage treatment facilities), and the water distribution and conveyance facilities used to provide water for municipal and industrial purposes.

SEC. 813. This title may be cited as the "Water Supply Rehabilitation and Conservation Act of 1985".

TITLE IX—HARBORS

SEC. 901. (a) There is authorized to be established a National Commission on Harbor Maintenance (hereinafter in this title referred to as the "Commission"), which shall report to the President and the Congress no later than two years after the date of enactment of this Act on the annual and long-term costs of maintaining the Nation's harbors, and such recommendations as it finds appropriate on what portion of the costs of such maintenance, if any, should be assumed by non-Federal interests. In the event the Commission makes recommendations for the non-Federal assumption of a portion of harbor maintenance costs, consideration shall be given without prejudice to the recovery of such costs through ad valorem based vessel charges, uniform national tonnage fees, portspecific fees, and any other method of collection which the Commission may choose to consider.

(b) The Commission shall be composed of the Secretary of the Army, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and a chairman to be appointed by the President.

(c) The Commission shall weigh the interests of the port authorities, navigation districts, and similar organizations, as well as shippers and carriers of the United States and the impact on United States trade and the economy in making its recommendations, and shall include in its report an assessment of the impact of its recommendations on each of these interests.

(d) To assist the Commission in its work, there is authorized to be established a Shipping Advisory Board to be composed of eleven members, selected by the Commission Chairman, to provide representation for the United States port interests from various coasts and the Great Lakes, both large and small United States ports, United States shippers of bulk and general cargoes, and United States carriers of both bulk and general cargoes.

(e) To carry out the purposes of this section, there is authorized to be appropriated to the Commission for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000 such sum to remain available until expended.

(f) Until such time as the report of the Commission is submitted to the Congress, and Congress acts by law to adopt, reject, or modify the recommendations, if any, of the Commission, the Secretary shall obligate from sums appropriated no more than $420,000,000 in any single fiscal year for the purpose of operating and maintaining the harbors of the United States.

(g) Nothing in this section shall be construed to prohibit or otherwise interfere with the authority of the Secretary or other Federal agency to operate or maintain any harbor of the United States for emergency purposes or for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

(h) Beginning on October 1, 1984, the Secretary shall undertake no construction work on any harbor except under the terms of section 903, 904, 905, or 911 of this title.

SEC. 902. (a) The appropriate non-Federal interests shall be responsible for 50 per centum of the costs incurred by the Secretary for surveying, planning, designing, and engineering that may be necessary prior to the construction of any harbor.

(b)(1) A non-Federal interest may undertake a feasibility study for improvements to any harbor, and submit such study to the Secretary. To assist non-Federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for harbor feasibility studies in order to provide sufficient information for the formulation of a plan of study.

(2)(A) The Secretary shall review each feasibility study submitted by non-Federal interests for any harbor submitted under paragraph (b)(1) of this section for the purpose of determining whether or not such study was prosecuted in accordance with the guidelines promulgated under such paragraph and was developed in compliance with Federal laws and regulations applicable to navigation projects for harbors.

(B) Not later than one hundred and eighty days after receiving any feasibility study under paragraph (b)(1) of this section, the Secretary shall transmit to the Congress, in writing, the results of such study and any recommendations the

Secretary may have concerning the project described in such study.

(3) The costs of studies made under this subsection shall be borne by the non-Federal interest, except that whenever a study results in the construction of a project by the Secretary, 50 per centum of the cost of such study shall be credited toward the non-Federal interest's cost-sharing requirement under this title.

SEC. 903. (a)(1) The non-Federal share of the cost of construction of general cargo harbors on which construction has not been commenced as of October 1, 1984, shall be 30 per centum: *Provided, however,* That the Federal share of the cost of projects constructed to depths no deeper than twenty feet below mean low water shall be 100 per centum.

(2) For purposes of this section, a project shall be deemed to have commenced construction if the non-Federal interest has entered into a written contract as of December 31, 1983, with the Secretary to provide local cooperation required pursuant to the project authorization, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended.

(b) Prior to Federal initiation of construction of a project approved pursuant to this section, or a general cargo harbor previously authorized by the Congress for which construction has not commenced under the terms of subsection (a)(2) of this section, the Secretary and the non-Federal interest shall enter into a cooperative agreement according to procedures set forth in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501). The non-Federal interest shall agree to—

(1) provide to the Federal Government lands, easements, and rights-of-way, required for construction, operation, and maintenance of such project;

(2) hold and save the United States free from damages due to the construction or operation and maintenance of such project except for damages due to the fault or negligence of the United States or its contractors; and

(3) provide to the Federal Government the non-Federal share of all other costs of construction of such project: *Provided, however,* That the value and costs of providing lands, easements, and rights-of-way, shall be credited toward the non-Federal share of the cost of construction. Any cost differential needed to fulfill the non-Federal share shall be provided to the Federal Government on a pro rata basis during the period of construction, beginning not later than one year after construction is initiated.

SEC. 904. (a) Any non-Federal interest is authorized to undertake navigational improvements in deep-draft harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

(b) The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to deep-draft harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirements of subsection (c) of this section.

(c) When requested by an appropriate non-Federal interest, the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section, and assist in obtaining all necessary permits: *Provided*, That the non-Federal interest contracts with the Secretary to reimburse the United States for the cost of such studies and engineering during the period that they are conducted.

(d) The Secretary is authorized to complete deep-draft harbor construction projects for which construction was initiated by the Secretary prior to the date of enactment of this Act: *Provided*, That for projects in which the appropriate non-Federal interest has not entered into a written contract as of December 31, 1983, with the Secretary to provide the local cooperation required pursuant to the project authorizations, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended, such non-Federal interest shall be required to contract with the Secretary to repay, within thirty years of the date of enactment of this Act, the cost of all such work undertaken after September 30, 1984, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields during the month preceding the fiscal year in which each advance is made on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period of the project.

(e) Whenever a non-Federal interest constructs improvements to any harbors, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: *Provided*, That the Secretary certifies that the project is constructed in accordance with appropriate engineering and design standards.

(f) Pursuant to subsection (a) of this section, the non-Federal interest shall provide 50 per centum of the costs expended on any relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities necessary for the construction of deep-draft harbors).

(g) Notwithstanding any other provision of this Act and in order to be consistent with the provisions and requirements of section 604 of this Act, the non-Federal sponsor of any deep-draft harbor, if such authorization occurred prior to January 1, 1972, shall be required to contribute 12½ per centum of the cost of construction of any such project on a periodic basie during the peri[illegible]nstruction, plus an additional 12½ per centum of the cost of construction over a thirty year period commencing once the project is available for use by vessels having drafts greater than forty-five feet, together with interest on the unpaid balance at a rate determined by the Secretary of the Treasury under the terms of section 911(b)(1) of this title: *Provided*, That the value and the costs of construction of dredged disposal sites shall be a non-Federal responsibility, and shall not be considered a part of the cost of such project when the appropriate level of cost sharing is calculated.

SEC. 905. (a) Nothing in this title shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to operate, maintain, or improve any harbor for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

(b) Any subject authorized under the provisions of this section may include additional improvements requested by the appropriate non-Federal interest: *Provided*, That prior to the commencement of such improvements, the appropriate non-Federal interest enters into a contract with the Secretary or other Federal authority to pay, during the period of construction, that portion of the project's cost which the Secretary or other Federal authority determines to be allocable to non-defense-related needs, if such project is a deep-draft harbor, or 30 per centum of the cost during the period of construction, if such project is a general cargo harbor. If such non-Federal interest fails to so participate, the Secretary or other Federal authority shall design such project solely to meet national defense requirements.

(c) If non-Federal interests undertake a project under the terms of section 904 of this title which can be expected to provide direct benefits to the national defense requirements of the United States, the Secretary of other Federal authority is authorized prior to the commencement of construction to contract with such non-Federal interests, subject to appropriations Acts, to pay, during the period of construction, that portion of the project costs directly attributable to national defense-requirements, as defined in subsection (a) of this section.

(d) Whenever the Secretary undertakes improvements to a general cargo harbor, the Secretary is authorized to reduce the percentage share of commitment required by the non-Federal interest on a proportional basis related to that portion of the traffic that provides direct benefits to the national defense requirements of the United States.

SEC. 906. (a) Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of section 903, 904, 905, or 911 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 904 or 911 of this title, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

(b) Fees collected by a non-Federal interest pursuant to the authority of this section shall be used only for the purpose of paying for the non-Federal share of the cost of construction and incremental maintenance work on harbors, or any obligations undertaken for that purpose.

(c) Fees authorized by this section shall not be imposed on—

(1) vessels owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service;

(2) vessels used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision and not engaged in commercial service;

(3) vessels in intraport movements; and

(4) vessels with design drafts of fourteen feet or less.

SEC. 907. (a) Upon the application of the appropriate non-Federal interest, the Secretary is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, up to 90 per centum of any obligation issued by a non-Federal interest to finance the non-Federal portion of the cost of a general cargo harbor or a deep-draft harbor undertaken under the terms of section 903 or 904 of this title.

(b) An obligation guaranteed under this section shall have a maturity date not to exceed thirty years or the useful life of the project, whichever is less.

(c) The costs that shall be financed by a guaranteed obligation shall include the associated costs of the project including environmental mitigation, the acquisition and preparation of dredge spoil disposal sites, easements, rights of way, and similarly related costs.

(d)(1) The non-Federal interest shall convey to the Secretary such security interest in the project as the Secretary may reasonably require to protect the interests of the United States.

(2) The non-Federal interest shall not be required to convey a security interest in any asset other than those which are a part of the project, nor to provide any additional collateral or guarantees to the Secretary.

(3) The security interest in the project conveyed to the Secretary shall be subordinant to any lender's security interest covering funds provided to the non-Federal interest for the project, but not covered by the guarantee of the Secretary.

(e) The full faith and credit of the United States is pledged to the payment of any guarantee made under this section with respect to both principal and interest, including interest as provided for in the guarantee occurring between the date of default on a guaranteed obligation and the payment in full of the amount guaranteed.

(f) Any guarantee or commitment to guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for that guarantee, and the validity of any commitment to guarantee so made shall be incontestable.

(g) The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any loss shall not exceed $2,000,000,000. No additional limitations may be imposed on commitments to guarantee obligations for any fiscal year, except in such amounts as those established in advance in authorization Acts.

(h) The Secretary shall assess a guarantee fee of not less than one-quarter of 1 per centum per annum, nor more than 1 per centum per annum of the average principal amount of a guaranteed obligation outstanding. All monies received by the Secretary shall be deposited in the general fund of the Treasury.

(i)(1) In the event of a default, which has continued for thirty days, in any payment of the non-Federal interest of principal or interest due under an obligation guaranteed under this section, the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of that default, payment by the Secretary of the unpaid principal amount of that obligation and of the unpaid interest thereon to the date of payment. Within such a period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of that demand, the Secretary shall promptly pay the obligee or his agent the unpaid principal amount of that obligation and unpaid interest to the date of payment. The Secretary shall not be required to make that payment if, prior to the expiration of that period, he shall find that there was no default by the obligor in the payment of principal or interest or that the default has been remedied prior to any such demand.

(2) Any amount required to be paid by the Secretary under this section shall be paid in cash.

(3) In the event of any default under any guaranteed obligation or any related agreement, the Secretary shall take such action against the non-Federal interest or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. A suit may be brought in the name of the United States or in the name of the obligee, and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. At his discretion, the Secretary shall accept a conveyance of title to a possession of property from the non-Federal interest or other parties liable to the Secretary, and may purchase the property for an amount not to

exceed the unpaid principal amount of the obligation and interest thereon. In the event the Secretary shall receive, through the sale of property, an amount of cash in excess of any payment made to an obligee under this section and the expenses of collection of those amounts, the Secretary shall pay that excess to the non-Federal interest.

(4) The Secretary may not issue a guarantee when the interest is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954.

(5) To make any payments required under any guarantee under this section, there is authorized to be appropriated to the Secretary such sums as may be necessary.

SEC. 908. (a) The Secretary, upon receipt from an appropriate non-Federal interest of a written notice of intent to construct improvements, shall initiate procedures to establish a schedule of compliance for the purpose of joint processing of all Federal permits required prior to initiation of such construction activities.

(b)(1) Within fifteen days of the receipt of correspondence under the terms of subsection (a) of this section, the Secretary shall publish such notice in the Federal Register. The Secretary shall also notify in writing all State and local agencies that may be required to issue permits for construction of such improvements and related activities that such construction is proposed. The Secretary shall solicit the cooperation of such agencies and request that they also become parties to a memorandum of agreement (hereinafter in this Act referred to as the "agreement"). If within thirty days following publication of notice in the Federal Register any such agency advises the Secretary in writing of its willingness to become a signatory to the agreement, the Secretary shall include such agency in the agreement.

(2) Within ninety days of the Secretary's receipt of the correspondence described in subsection (a) of this section, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies which have notified the Secretary in writing shall enter into the agreement with the Secretary to establish a schedule of compliance with the necessary Federal permits required for undertaking such improvements. The schedule of compliance shall not exceed two years from the date of the agreement.

(c)(1) The agreement shall, to the extent possible, consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting process with data collection and analysis associated with the feasibility study conducted by the non-Federal interest. The agreement will also detail the non-Federal interest's responsibilities with respect to data development, and information necessary to process each permit, including a schedule of dates when such information and data will be provided to the appropriate Federal, State, or local agency.

(2) Such agreement shall also include a scheduled date by which the Secretary, taking into consideration the views of all of the affected Federal agencies, shall determine whether there is a reasonable likelihood the necessary permit or permits will not be issued, in which case the Secretary shall so notify the appropriate non-Federal interest. The Secretary may revise the agreement only once to extend the schedule of compliance for a period not to exceed one hundred and twenty days for the purpose of allowing the non-Federal interest to revise the original application to meet the objections of the Federal agencies.

(d) Six months prior to the final day of the schedule the Secretary shall provide to Congress a written progress report. The report shall be transmitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Public Works and Transportation of the United States House of Representatives. The report will summarize all work completed in accordance with the agreement and shall include a detailed work plan which shall assure completion of all remaining work in accordance with the agreement.

(e) Not later than the final day of the compliance schedule, the Secretary shall notify the non-Federal interest as to whether the permit or permits are issued.

(f) Not later than March 1, 1987, the Secretary shall prepare and transmit to the Congress a report describing the amount of time required to issue Federal environmental permits related to construction of harbor improvements. The Secretary shall include in such report recommendations for reducing the amount of time required to issue such permits, including any proposed changes in existing law.

SEC. 909. For the purposes of this title, the terms—

(1) "harbors" means the channels and harbors of the United States with a depth authorized by law of fourteen feet or greater and a width authorized by law, or to the depths and widths the construction of which was initiated by non-Federal interests after July 1, 1970, and prior to January 1, 1981, or to the depths and widths that may be constructed under the terms of this title: *Provided,* That such term does not mean local access or berthing channels: *And provided further,* That such terms shall be considered for the Columbia River, Oregon and Washington, to include the channels only up to the downstream side of Bonneville lock and dam, Oregon and Washington;

(2) "general cargo harbor" means a harbor which is constructed to a depth no greater than forty-five feet;

(3) the term "deep-draft harbor" means a harbor which is constructed to a depth of greater than forty-five feet; and

(4) the term "non-Federal interests" has the meaning such term has under section 221 of Public Law 91-611, as amended.

SEC. 910. Subject to the provisions of section 212 of this Act, the following works for improvement of general cargo harbors are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided*, That the figures listed in this title shall be subject to the limitations provided under section 213 of this Act and this title:

(1) Kodiak Harbor, Alaska: Report of the Chief of Engineers dated September 7, 1976, at a Federal cost of $13,400,000 (October 1982);

(2) Oakland Outer Harbor, California: Report of the Chief of Engineers dated January 7, 1980, at a Federal cost of $36,040,000 (October 1982);

(3) Richmond Harbor, California: Report of the Chief of Engineers dated August 8, 1982, at a Federal cost of $48,400,000 (October 1982);

(4) Sacramento River, deepwater Ship Channel, California: Report of the Chief of Engineers dated November 20, 1981, at a Federal cost of $77,000,000 (October 1982);

(5) New Haven Harbor, Connecticut: Report of the Chief of Engineers dated July 26, 1982, at a Federal cost of $23,000,000 (October 1982);

(6) Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers dated February 12, 1982, at a Federal cost of $5,700,000 (October 1982);

(7) Manatee Harbor, Florida: Report of the Chief of Engineers dated May 12, 1980, at a Federal cost of $10,600,000 (October 1982);

(8) Tampa Harbor, East Bay Channel, Florida: Report of the Chief of Engineers dated January 25, 1979, to assume maintenance (October 1982);

(9) Savannah Harbor, widening, Georgia: Report of the Chief of Engineers dated December 19, 1978, at a Federal cost of $11,700,000 (October 1982);

(10) Grand Haven Harbor, Michigan: Report of the Chief of Engineers dated October 9, 1979, at a Federal cost of $12,900,000 (October 1982);

(11) Monroe Harbor, Michigan: Report of the Chief of Engineers dated November 25, 1981, at a Federal cost of $68,700,000 (October 1982);

(12) Gulfport Harbor, Mississippi: Report of the Chief of Engineers dated January 16, 1978, except that the Chief of Engineers is authorized to construct the project in the most cost effective and environmentally sound manner at a Federal cost not to exceed $73,700,000 (October 1982);

(13) Wilmington Harbor, Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers dated September 16, 1980, at a Federal cost of $7,740,000 (October 1982);

(14) Portsmouth Harbor and the Piscataqua River Basin, Maine and New Hampshire: Report of the Board of Engineers for Rivers and Harbors dated March 21, 1984, at a Federal cost of $21,300,000 (October 1983);

(15) Gowanus Creek, Channel, New York: Report of the Chief of Engineers dated September 14, 1982, at a Federal cost of $2,000,000 (October 1982);

(16) Kill Van Kull and Newark Bay Channels, New York and New Jersey: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $178,000,000 (October 1982);

(17) San Juan Harbor, Puerto Rico, phase I GDM: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $72,800,000 (October 1982);

(18) Charleston Harbor, South Carolina: Report of the Chief of Engineers dated August 27, 1981, at a Federal cost of $76,100,000 (October 1982);

(19) Brazos Island Harbor, Texas, Brownsville Channel: Report of the Chief of Engineers dated December 20, 1979, at a Federal cost of $26,700,000 (October 1982);

(20) Crown Bay Channel-Saint Thomas Harbor, Virgin Islands: Report of the Chief of Engineers dated April 9, 1982, at a Federal cost of $3,500,000 (October 1982);

(21) Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $30,000,000 (October 1982);

(22) Grays Harbor, Washington: Report of the Board of Engineers for Rivers and Harbors, dated January 17, 1983, at a Federal cost of $77,850,000 (October 1983);

(23) Hampton Roads and vicinity, Virginia (drift removal): Report of the Chief of Engineers dated Octo-

ber 19, 1983, at a Federal cost of $2,170,000 (October 1983);

(24) Barnegat Inlet, New Jersey, phase I GDM: Report of the Chief of Engineers dated January 20, 1983, as modified by the Supplemental Chief of Engineers Report dated May 21, 1984, at a Federal cost of $20,802,000 (October 1983);

(25) Saint Paul Island Harbor, Alaska: Report of the Chief of Engineers dated August 10, 1983, at a Federal cost of $11,900,000 (October 1983); and

(26) Duluth-Superior Harbor, Minnesota and Wisconsin: Report of the Chief of Engineers dated August 16, 1984, at a Federal cost of $8,500,000 (October 1983).

SEC. 911. (a) Notwithstanding any other provision of this title, the following works for improvement of deep-draft harbors are hereby authorized to be prosecuted by the Secretary under the terms of this section and in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided*, That the figures listed in this section shall be subject to the limitations provided under section 213 of this Act: *Provided further*, That any such work shall be subject to the conditions described in subsection (b) of this section: *And provided further*, That the terms of this section shall apply to any deep-draft harbor authorized for construction subsequent to the enactment of this Act:

(1) Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers dated November 20, 1981, at a cost of $514,000,000 (October 1983);

(2) Mobile Harbor, Alabama: Report of the Chief of Engineers dated November 18, 1981, at a cost of $468,900,000 (October 1983); and

(3) Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana: Report of the Chief of Engineers dated April 9, 1983, at a cost of $525,000,000 (October 1983).

(b)(1) No construction on any project authorized pursuant to this section shall be undertaken by the Secretary until the non-Federal sponsor agrees in writing, and shows evidence satisfactory to the Secretary that such sponsor possesses the legal and financial capability of raising the funds necessary, to pay 25 per centum of the cost of such project on a periodic basis during the construction of such project, then pay an additional 25 per centum of the cost of such project over a thirty-year period commencing once the project is available for use by vessels having drafts greater than forty-five feet, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields on Federal securities of similar maturity during the 12 months preceding the date of the Secretary of the Treasury's determination.

(2) The authority for any project undertaken pursuant to this section shall expire at the end of the fifth full fiscal year following the date on which such project was authorized, unless 10 per centum of the funds necessary for the construction of such project, or separable element thereof approved jointly by the Secretary and the non-Federal interest, shall have been obligated jointly by Federal and non-Federal interests.

(3) Any increment of construction under the terms of this section to a depth of forty-five feet shall, for the purposes of cost-sharing by non-Federal interests, be treated as a general cargo harbor.

(c) No projects undertaken under the authority of this section shall be eligible for any guarantees under the terms of section 907 of this title.

SEC. 912. This title may be cited as the "National Harbors Improvement Act of 1985".

II

99TH CONGRESS
1ST SESSION

S. 534

To authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 18), 1985

Mr. STAFFORD (by request) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1985".

SEC. 2. For the purposes of this Act—

(1) "Corps" means the United States Army Corps of Engineers.

(2) "Secretary" means the Secretary of the Army.

(3) "Treasury" means the Treasury of the United States.

(4) "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States exercises jurisdiction.

TITLE I—PORTS AND HARBORS DEVELOPMENT AND COST SHARING

SEC. 101. For purposes of this title—

(1) "port or harbor improvement project" means any port, harbor, or associated channel or any element thereof, which is constructed, operated, or maintained by the Department of the Army. The term does not include—

(A) any port or harbor improvement undertaken by a non-Federal public body except an improvement undertaken pursuant to section 113 of this title, or

(B) any common navigation improvement.

(2) "waterway transportation" means the use of a vessel on the open ocean, on one of the Great Lakes,

or at a port or harbor improvement project of the United States.

(3) "non-Federal public body" means—

(A) a State;

(B) a political subdivision of a State; or

(C) any corporation or other entity which is established under an interstate compact or under a law or ordinance of, or charter issued by, a State or political subdivision thereof for the purpose of—

(i) promoting, developing, operating, or managing landside facilities at a port or ports; or

(ii) operating or maintaining a port or harbor improvement project.

(4) "average annual operation and maintenance cost" means the average annual Federal and non-Federal cost of operation and maintenance per ton of commercial cargo loaded and unloaded at each port or harbor improvement project, adjusted for inflation, for the most recent five-year period for which accurate data are available; except that the Secretary may use a longer period if he determines that a five-year period does not adequately reflect the anticipated cycle of operation and maintenance for the project;

(5) "national operation and maintenance ceiling" means 125 per centum of the national average operation and maintenance cost per ton of commercial traffic as determined by the Secretary by dividing the Federal and non-Federal operation and maintenance cost for all ports and harbors of the United States with depths of more than fourteen feet by the total commercial tonnage loaded and unloaded at such ports, using the most recent five-year period for which accurate data are available;

(6) "project sponsor" means, with respect to a port or harbor improvement project, a non-Federal public body which has entered into a written agreement with the Secretary to provide the non-Federal share of operation and maintenance costs or construction costs for the projects pursuant to sections 103 or 105 of this title; and

(7) "common navigation improvement" means any channel, lock, or other improvement constructed, operated, or maintained by the Secretary which benefits more than one port or harbor.

SEC. 102. (a) Notwithstanding any other provision of law, the non-Federal share of the cost of operating and maintaining port or harbor improvement projects after October 1, 1985, shall be:

(1) for a project with an authorized depth of fourteen feet or less, 70 per centum of all operation and maintenance costs assigned by the Secretary to navigation purposes;

(2) for a project with an authorized depth of more than fourteen feet with annual commercial tonnage of less than one million tons, 70 per centum of all operation and maintenance costs assigned by the Secretary to navigation purposes; and,

(3) for any other project, 100 per centum of all operation and maintenance costs assigned by the Secretary to navigation purposes; except that, the non-Federal share shall be limited by the national operation and maintenance ceiling. For any port or harbor improvement project where average annual operation and maintenance costs exceed the national operation and maintenance ceiling, the non-Federal percentage of cost for such improvements shall be determined by dividing the national operation and maintenance ceiling by the average annual operation and maintenance costs per ton of commercial cargo for such project and multiplying by 100.

(b) For purposes of this section, the Secretary shall assign the costs of operating and maintaining any common navigation improvement to each port and harbor benefited or served by such improvement. The assignment shall be based on the ratio of the commercial tonnage loaded or unloaded at each port or harbor to the total commercial tonnage using the improvement. Any costs assigned on such basis to ports or harbors other than United States ports and harbors shall not be subject to cost recovery under this title. To the extent permitted under existing treaty obligation and general principles of international law, the Secretary of State is authorized to enter into discussions with foreign governments concerning repayment of any costs assigned pursuant to this section to ports or harbors within the jurisdiction of such foreign governments.

(c) Beginning July 1, 1985, and annually on each July 1 thereafter, the Secretary shall publish in the Federal Register a listing of all port or harbor improvement projects showing, for each project, the estimated schedule of operation and maintenance, the average annual operation and maintenance cost, the annual commercial tonnage, and the estimated Federal and non-Federal share of any anticipated operation and maintenance costs. Concurrent with publication in the Federal Register, the Secretary shall notify the project sponsor for each port or harbor improvement project of the estimated schedule of operation and maintenance, the average annual operation and maintenance cost, the annual commercial tonnage, and the estimated Federal and non-Federal share of any anticipated operation and maintenance costs for such project. Determinations of the Secretary, published pursuant to this subsection, are final and are within the complete discretion of the Secretary. No action by the Secretary pursuant to this section or pursuant to section 103 of this title shall be deemed to be a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852).

SEC. 103. (a) The non-Federal share of the cost of post-authorization planning, rehabilitation, modification, or construction of general navigation features, including but not limited to breakwaters, navigation channels and turning basins, for a port or harbor improvement project shall be—

(1) in the case of depths of forty-five feet or less, 70 per centum;

(2) in the case of depths greater than forty-five feet, an amount equal to

the sum of (A) an amount equal to 70 per centum of the cost which the Secretary determines would be incurred if such project had a depth of forty-five feet, and (B) an amount equal to 100 per centum of the cost for such project over the cost which the Secretary determines would be incurred if such project had a depth of forty-five feet.

(b) This section shall apply to any port or harbor improvement project or a separable element thereof, authorized by this title or any other provisions of Federal law enacted before, on, or after the date of enactment of this title (including projects not specifically authorized by Congress); except that this section shall not apply to any project or separable element thereof for which Federal funds have been obligated for physical construction before October 1, 1985. Any port or harbor improvement project authorized by this title or any other provision of law enacted before, on, or after the date of enactment of this title may be constructed in usable increments.

(c) For purposes of this section, the Secretary shall assign the costs of construction, rehabilitation, modification and post-authorization planning of any common navigation improvement to each port and harbor to be benefited or served by such improvement. The assignment shall be based on the ratio of the commercial tonnage which is expected to be loaded and unloaded at each port or harbor to the anticipated total commercial tonnage which is expected to use the improvement. Any costs assigned on such basis to ports or harbors other than United States ports and harbors shall not be subject to cost recovery under this title. To the extent permitted under existing treaty obligations and general principles of international law, the Secretary of State is authorized to enter into discussions with foreign governments concerning repayment of any costs assigned pursuant to this section to ports or harbors within the jurisdiction of such foreign governments.

SEC. 104. (a) Prior to initiation or continuation of Federal operation and maintenance or initiation of construction at a port or harbor improvement project or a separable element thereof after October 1, 1985, authorized by this title or any other provision of Federal law enacted before, on, or after the date of enactment of this title, a project sponsor shall enter into a written agreement with the Secretary to provide the non-Federal share of the costs as provided for in sections 102 and 103 of this title in accordance with a project schedule established by the Secretary to ensure that the required items of local cooperation including any amounts to be provided by project sponsors are available as needed. The agreements shall provide for the rights and duties of the United States and the project sponsor with respect to the construction, operation and maintenance of the project including, but not limited to, provisions requiring termination or suspension of any Federal construction, operation, and maintenance work for nonpayment of the non-Federal share of costs unless the Secretary determines that continuation of the work is in the interest of the United States.

(b) All amounts provided by project sponsors pursuant to this title shall be deposited in the Treasury as part of the Rivers and Harbors Contributed Fund account and are appropriated, without fiscal year limitation, to the Secretary for operation, maintenance, construction, rehabilitation, modification and post-authorization planning of the port or harbor improvement project or a separable element thereof for which such amounts have been provided by a project sponsor.

SEC. 105. Project sponsors shall provide traditional local cooperation requirements for operation and maintenance of port or harbor improvement projects and for rehabilitation, modification, and construction of general navigation features of such projects, including but not limited to provision of lands, easements, rights-of-way, necessary relocations, and any necessary and suitable dredged material disposal areas. The costs of these requirements shall be credited toward the non-Federal share of costs pursuant to section 103 in the case of rehabilitation, modification and construction of general navigation features and pursuant to section 102(a) in the case of operation and maintenance of port and harbor improvement projects. With respect to disposal areas which may be used for disposal of dredged material in connection with both the operation and maintenance of a port or harbor improvement project and the rehabilitation, modification and construction of general navigation features, the Secretary shall determine that portion of the cost of the disposal area assignable to Federal operation and maintenance and that portion assignable to Federal rehabilitation, modification and construction on the basis of the estimated proportionate share of cubic years of dredged material to be discharged at such disposal areas for each of those purposes. The Secretary shall credit the proportionate share of the cost of such disposal area to the non-Federal share of operation and maintenance and of rehabilitation, modification, and construction.

SEC. 106. (a) Notwithstanding any other provision of Federal law prohibiting or limiting the authority of non-Federal public bodies to impose a toll or other charge for the use of the navigable waters of the United States, any project sponsor, upon enactment of this title and in accordance with the provisions of this section, is authorized to recover any amounts needed to pay or service obligations undertaken for the purpose of providing the non-Federal share of operation and maintenance costs pursuant to section 102(a), for the purpose of providing the non-Federal share of construction, rehabilitation, modification and post-authorization planning costs pursuant to section 103(a) of this title or for the purpose of constructing any general navigation features pursuant to section 113 of this title, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in waterway transportation. Such fees shall be established after a public hearing held pursuant to applicable State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel. Pursuant to article I, section 10, clause 2 of the Constitution of the United States, the Congress hereby consents to the imposition by any state of any imposts or duties on imports or exports only to the extent that such imposts or duties are in connection with non-Federal cost-sharing requirements established pursuant to section 102 or section 103 of this title or for expenses incurred pursuant to activities under section 113 of this title.

(b) Fees authorized pursuant to this section shall be collected in accordance with a published fee schedule which shall be submitted to the Secretary for approval not less than ninety days prior to its effective date. The Secretary, in consultation with other affected Federal agencies, shall approve the fee schedule only if he determines that the fees do not conflict with the requirements of this title, other Federal law, and the international obligations of the United States.

SEC. 107. No fees shall be collected under the authority of this title from—

(1) vessels not engaged in commercial activity which are owned by, or under bareboat charter or time charter to, or for any purpose under the control or custody of the United States, or any of its officers, agents,

employees or of any corporation wholly owned by the United States;

(2) vessels not engaged in commercial activity which are owned by, or under bareboat charter or time charter to, any other nation; any of its officers, agents, employees or of any corporation wholly owned by any other nation;

(3) vessels used by a State, or political subdivision thereof, transporting persons or property in the business of the State or political subdivision; or

(4) vessels engaged in dredging activities or in intraport movements.

SEC. 108. This title shall not be construed to prohibit or otherwise interfere with any authority of the Department of the Army, the United States Coast Guard, the Department of the Navy or any other agency or department of the United States Government to construct, operate, maintain, or improve any port or harbor improvement project or other navigation improvement for purposes of national defense or the navigation and transportation requirements of the United States Coast Guard and the Department of the Navy.

SEC. 109. (a) There is established a task force to be known as the Port and Harbor Improvement Task Force (hereinafter referred to as the "Task Force") composed of the Secretaries of the Treasury, the Interior, Commerce, Agriculture, and Transportation and the Administrator of the Environmental Protection Agency (or their designees), and fifteen members selected by the Secretary, one of whom shall be designated by the Secretary as Chairman. The non-Federal members shall be selected so as to represent various regions of the United States and a spectrum of interests, including non-Federal public bodies that operate ports associated with port and harbor improvement projects, concerns engaged in water transportation, importers, and exporters. The non-Federal members of the Task Force shall serve for a term of four years; except that in making the initial appointments to the Task Force, the Secretary may appoint members for terms less than four years to facilitate orderly rotation of members. The Task Force shall be subject to the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 2), as amended, and with the consent of the appropriate agency head, the Task Force may use the facilities and services of any Federal agency.

(b) The Task Force shall meet at least annually to develop and make recommendations to the Secretary concerning operations, maintenance, and improvement of port or harbor improvement projects. The Secretary shall give consideration to the recommendations of the Task Force.

(c) Non-Federal members of the Task Force, while engaged in the performance of their duties away from their homes or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 110. The Secretary, acting through the Chief of Engineers, may study the feasibility of the construction of port or harbor improvement projects and common navigation improvements or the improvement, rehabilitation, or modification of an existing port or harbor improvement project and common navigation improvements if the Chief of Engineers determines, on the basis of a reconnaissance study, that the feasibility study will likely result in a justifiable project. The Chief of Engineers may consult with concerned non-Federal public bodies and appropriate agencies and departments of the United States Government before initiating a feasibility study authorized by this section. Any such feasibility study would be subject to the cost sharing requirements of title II of this Act.

SEC. 111. When a non-Federal public body enters into an agreement with the Secretary concerning a plan of improvement for a port or harbor improvement project in accordance with section 104 of this title, the Secretary, acting through the Chief of Engineers, may design, construct, operate, and maintain the plan of improvement, if the Secretary has determined that the plan of improvement is feasible and justified, subject to the requirements of section 112.

SEC. 112. (a)(1) Before the Secretary, acting through the Chief of Engineers, may initiate construction of a plan of improvement authorized under section 111 of this title, the Secretary shall submit to Congress—

(A) a final environmental impact statement for the plan of improvement, if the Secretary determines that the statement is required by the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4331 et seq.); and

(B) a statement of the Secretary's compliance, as of the date of such submission, with: the Clean Water Act (86 Stat. 816; 33 U.S.C. 1251 et seq.), as amended; the Fish and Wildlife Coordination Act (48 Stat. 401; 16 U.S.C. 661 et seq.), as amended; and other statutory requirements applicable to the plan of improvement.

(2) The statements required under paragraph (1) of this subsection and any other actions required by the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4331 et seq.) and other applicable statutes shall be completed on an expedited basis pursuant to schedules established by the Secretary, after consultation with the Chairman of the Council on Environmental quality and other appropriate Federal and State officials. Thereafter Federal and State officials shall provide any data and comments, and the public shall be

afforded opportunity to participate, in accordance with the Secretary's schedules. Any necessary decisions to be made by Federal and State officials must be made in accordance with the Secretary's schedule.

(3) A plan of improvement addressed by an environmental impact statement that is submitted to Congress in accordance with paragraph (1) of this subsection shall be eligible for construction appropriations and implementation and may be undertaken unless a joint resolution disapproving the environmental impact statement becomes law within one hundred eighty calendar days of the receipt of the environmental statement by the Congress.

(b) An environmental impact statement which is submitted to Congress in accordance with subsection (a)(1) of this section and is not disapproved pursuant to subsection (a)(3) of this section shall be deemed to satisfy the requirements of section 102(2) of the National Environmental Policy Act of 1969 (83 Stat. 853; 42 U.S.C. 4332 (2)), as amended.

(c) Claims alleging that work authorized by this section will deny rights under the Constitution of the United States or violate any Federal or State statutes or regulations may only be filed in a United States district court for a district in which the work is located or to be located or in which the alleged injury occurs. These courts shall have original jurisdiction over the proceedings and shall assign them for hearing on an expedited basis if good cause exists for an expedited hearing. The courts shall not have jurisdiction to grant any injunctive relief against any actions undertaken pursuant to this section except—

(1) in conjunction with a final judgment entered in a case involving a claim filed under this section; or

(2) where the petitioner presents a clear and convincing showing that the petitioner is likely to prevail on the merits; that without such injunction the petitioner will suffer irreparable harm; that issuance of an injunction will not lead to unreasonable harm to other parties; and that issuance of the injunction is in the public interest.

SEC. 113. (a)(1) Before the initiation of construction and on request from an appropriate non-Federal public body in the form of a written notice of intent to construct a port or harbor improvement project, the Secretary shall initiate procedures to establish a schedule for consolidating Federal, State, and local agency environmental assessments, project reviews, and issuance of all permits for the construction of the project, including associated access channels and berthing areas, and onshore improvements.

(2) Within fifteen days of the receipt of the notice under paragraph (1) of this subsection, the Secretary shall publish that notice in the Federal Register. The Secretary also shall

provide written notification of the receipt of a notice under paragraph (1) of this subsection to all Federal, State, and local agencies that may be required to issue permits for the construction of the project or related activities. The Secretary shall solicit the cooperation of those agencies and request their entry into a memorandum of agreement described in paragraph (3) of this subsection. Within thirty days after publication of the notice in the Federal Register, Federal, State, and local agencies that intend to enter into the memorandum of agreement shall notify the Secretary of their intent in writing.

(3) Within ninety days of receipt of notice under paragraph (1) of this subsection, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any Federal, State, or local agencies that have notified the Secretary under paragraph (2) of this subsection shall enter into an agreement with the Secretary establishing a schedule of decisionmaking for permits and related activities. The schedule of decisionmaking may not exceed two and one-half years from the date of the agreement.

(4) The agreement entered into under paragraph (3) of this subsection, to the maximum extent practicable, shall consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental

review and permitting processes associated with the project and related activities. The agreement shall detail to the extent possible the Department of the Army's or non-Federal public body's responsibilities for data development and information that may be necessary to process each permit or approval, including a schedule specifying when the information and data will be provided to the appropriate Federal, State, or local agency.

(5) The agreement snall include a date by which the Secretary, taking into consideration the views of all affected Federal agencies, shall provide to the non-Federal public body in writing a preliminary determination whether the project and Federal permits associated with it are reasonably likely to receive approval. The Secretary may revise the agreement once to extend the schedule to allow the non-Federal interest the minimum amount of additional time necessary to revise its original application to meet the objections of a Federal, State, or local agency which is a party to the agreement.

(b) Improvements and operation and maintenance of such improvements undertaken pursuant to this section shall be undertaken at no expense to the United States.

SEC. 114. The provisions of this title shall not apply to any channel, lock, or other improvement administered by the Saint Lawrence Seaway Development Corporation or to any channel, lock, or other improvement, except harbors or harbor components, of the following inland and intracoastal waterways of the United States:

(a) the Mississippi River and its natural and man-made tributaries and connecting channels upstream from Baton Rouge, Louisiana;

(b) all waterways of the United States and their tributaries with an authorized depth of fourteen feet or less emptying into the Gulf of Mexico west of the Mississippi River;

(c) the Gulf Intracoastal Waterway from Saint Marks River, Florida, to Brownsville, Texas;

(d) the Apalachicola River and its tributaries upstream from its junction with the Gulf Intracoastal Waterway;

(e) the Columbia River and its tributaries upstream from a point immediately downstream of the Bonneville Lock and Dam project;

(f) the Pearl River and its tributaries upstream from the junction of the West Pearl River with the Rigolets;

(g) the Mobile River and its tributaries, including the Tennessee Tombigbee waterway project, upstream from the Mobile Harbor project;

(h) the Atlantic Intracoastal Waterway between Norfolk, Virginia, and Miami, Florida, via both the Albemarle and Chesapeake Canal and Great Dismal Swamp Canal routes; and

(i) the portions of the Willamette River and its tributaries with authorized depths of fourteen feet or less.

SEC. 115. The following works for improvement of ports and harbors are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the total (Federal and non-Federal) estimated costs as listed in this title shall be subject to the cost-sharing provisions of this title. For those reports which have been transmitted to Congress before the date of enactment of this title, a reference to a report of the Chief of Engineers is deemed to include any modification or recommendations of the Secretary when transmitting such reports or recommendation to the Congress other than recommendations with respect to cost-sharing which are inconsistent with the requirements of this title.

(1) Savannah Harbor Widening, Georgia: Report of the Chief of Engineers dated December 19, 1978, at an estimated total cost of $19,175,000 (October 1984);

(2) Kodiak Harbor, Alaska: Report of the Chief of Engineers dated September 7, 1976, at an estimated total cost of $14,641,000 (October 1984);

(3) Sacramento River, Deepwater Ship Channel, California: Report of the Chief of Engineers dated November 20, 1981, at an estimated total cost of $125,300,000 (October 1984);

(4) New Haven Harbor, Connecticut: Report of the Chief of Engineers dated July 26, 1982, at an estimated total cost of $25,900,000 (October 1984);

(5) Oakland Outer Harbor, California: Report of the Chief of Engineers dated January 7, 1980, supplemented July 1, 1983 at an estimated total cost of $42,400,000 (October 1984);

(6) Grand Haven Harbor, Michigan: Report of the Chief of Engineers dated October 9, 1979, at an estimated total cost of $17,200,000 (October 1984);

(7) Gulfport Harbor, Mississippi: Report of the Chief of Engineers dated January 16, 1978, at an estimated total cost of $78,968,000 (October 1984), except that the project is authorized for construction;

(8) Wilmington Harbor, Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers dated September 16, 1980, at an estimated total cost of $9,718,000 (October 1984);

(9) Gowanus Creek Channel, New York: Report of the Chief of Engineers dated September 14, 1982, at an estimated total cost of $3,230,000 (October 1984);

(10) San Juan Harbor, Puerto Rico, Phase I GDM: Report of the Chief of Engineers dated December 23, 1982, at an estimated total cost of $86,334,000 (October 1984);

(11) Charleston Harbor, South Carolina: Report of the Chief of Engineers dated August 27, 1981, at an estimated total cost of $84,032,000 (October 1984);

(12) Brazos Island Harbor, Texas, Brownsville Channel: Report of the Chief of Engineers dated December 20, 1979, at an estimated total cost of $31,417,000 (October 1984);

(13) Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers dated February 8, 1977, at an estimated total cost of $34,720,000 (October 1984);

(14) Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers dated November 20, 1981, at an estimated total cost of $538,000,000 (October 1984);

(15) Monroe Harbor, Michigan: Report of the Chief of Engineers dated November 25, 1981, at an estimated total cost of $139,400,000 (October 1984);

(16) Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers dated July 26, 1983, at an estimated total cost of $6,575,000 (October 1984); and

(17) Manatee Harbor, Florida: Report of the Chief of Engineers dated May 12, 1980, at an estimated total cost of $16,115,000 (October 1984).

TITLE II—OTHER WATER RESOURCES COST SHARING

SEC. 201. (a) The construction or implementation of Corps of Engineers water or related land resources projects (including small projects not specifically authorized by Congress), or separable elements thereof, authorized for construction in this Act, or subsequent acts of Congress, or in any other law enacted before the date of enactment of this Act and on which physical construction has not been initiated prior to the date of enactment shall be initiated only after non-Federal interests have entered into binding agreements with the Corps of Engineers, agreeing to pay 100 per centum of operation, maintenance, and rehabilitation costs, and agreeing to share in the assigned joint and separable costs of implementation as follows:

(1) hydroelectric power: 100 per centum;

(2) municipal and industrial water: 100 per centum;

(3) recreation: 50 per centum;

(4) flood damage reduction: 35 per centum;

(5) hurricane and storm damage reduction: 35 per centum;

(6) agricultural water supply: 35 per centum;

(7) fish and wildlife enhancement: 100 per centum;

(8) aquatic plant control: 50 per centum.

(b) The agreement required pursuant to subsection (a) of this section shall be in accordance with the requirements of section 221 of the Flood Control Act of 1970 (84 Stat. 1818) and shall provide for the rights and duties of the United States and the project sponsor with respect to the construction, operation and maintenance of the project, including, but not limited to, provisions specifying that, in the event the project sponsor fails to provide the required non-Federal share of costs for such work, the Secretary:

(1) shall terminate or suspend work on the project unless the Secretary determines that continuation of the work is in the interest of the United States or is necessary in order to satisfy agreements with other

non-Federal interests in connection with the project; and,

(2) may terminate or adjust the rights and priviledges of the project sponsor to project outputs under the terms of the agreement.

(c) Costs of implementing the following projects or measures shall be assigned to appropriate project purposes listed in subsection (a) and shall be shared in the same percent as the purposes to which the costs are assigned:

(1) beach erosion control;

(2) fish and wildlife mitigation; and

(3) water quality enhancement;

Except that, for beach erosion control projects all costs assigned to benefits to privately owned shores or to prevention of land losses shall be borne by non-Federal interests.

(d) The non-Federal share of implementation costs shall be in cash or in-kind during construction of the project except that non-Federal contributions during construction for flood damage reduction, hurricane and storm damage reduction, recreation, and agricultural water supply shall be consistent with the ability of the non-Federal interest to pay at the time project expenditures are made. The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

(e) When the Secretary determines in accordance with this section that the non-Federal interest has a limited ability to pay during construction, a portion of the non-Federal contribution may be repaid over the useful life of the project but in no event over a period of more than fifty years from the date of project completion, subject to a schedule developed by the Secretary. Any repayment under this section shall include interest at the interest rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds for construction of the project are disbursed.

(f) The requirements of the section shall not apply to any navigation project or navigation component of a multipurpose project.

SEC. 202. (a) Non-Federal interests shall contribute 50 per centum of the cost of any feasibility study for any water resources study prepared by the Secretary except for studies of channel and lock improvements on inland and intracoastal waterways as described in section 114 of this Act. Not less than one-half of such non-Federal contribution shall be in cash and the balance may be in services, materials, or supplies necessary to prepare the feasibility report. A reconnaissance analysis at full Federal expense shall be completed prior to the feasibility study.

(b) This section shall not apply to water resources studies for which Federal funds have been obligated beyond the reconnaissance stage before the date of enactment of this Act, unless a non-Federal interest has previously entered into a cost-sharing agreement with the Secretary, in which case the cost-sharing provisions of this section shall apply to the remaining costs of the study.

TITLE III—PROJECT AUTHORIZATIONS

SEC. 301. The following works of improvement of rivers and harbors and other waterways for flood damage reduction and other purposes are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the total (Federal and non-Federal) estimated costs as listed in this title shall be subject to the cost-sharing provisions of title II of this Act. For those reports which have been transmitted to Congress before the date of enactment of this Act, a reference to a report of the Chief of Engineers is deemed to include any modification or recommendation of the Secretary when transmitting such report or recommendation to the Congress other than recommendations with respect to cost sharing which are inconsistent with the requirements of title II of this Act.

(a) FLOOD DAMAGE REDUCTION—

(1) Fountain Creek, Pueblo, Colorado, Phase I GDM: Report of the Chief of Engineers dated December 23, 1981, at an estimated total cost of $8,400,000 (October 1984);

(2) Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers dated July 9, 1979, at an estimated total cost of $27,300,000 (October 1984);

(3) Town Brook Local Protection, Quincy Coastal Streams, Massachusetts: Report of the Chief of Engineers, dated December 14, 1981, at an estimated total cost of $26,500,000 (October 1984), except that work completed by the project sponsor, which is certified by the Division Engineer as being compatible with and an integral part of the project, may be credited toward the sponsor's share of project costs.

(4) Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers dated August 10, 1979, at an estimated total cost of $14,950,000 (October 1984);

(5) Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers dated September 4, 1981, at an estimated total cost of $30,700,000 (October 1984);

(6) Cache Creek Basin, California: Report of the Chief of Engineers dated April 27, 1981, at an estimated total cost of $30,700,000 (October 1984), provided the Secretary acts in coordination with the State of California to assure that such project poses no danger to any component of its State park system;

(7) Redbank and Fancher Creeks, California: Report of the Chief of Engineers dated May 7, 1981, at an estimated total cost of $84,100,000 (October 1983);

(8) Santa Ana River Mainstem, including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at an estimated cost of $781,000,000 (October 1984);

(9) Oates Creek, Georgia: Report of the Chief of Engineers dated December 23, 1981, at an estimated total cost of $13,472,000 (October 1984);

(10) Agana River, Guam: Report of the Chief of Engineers dated March 14, 1977, at an estimated total cost of $9,080,000 (October 1984);

(11) Big Wood River and Tributaries, Idaho, Interim Report—Little Wood River, Vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers dated November 2, 1977, at an estimated total cost of $4,420,000 (October 1984);

(12) Rock River at Rockford and Vicinity, Illinois, Loves Park Interim: Report of the Chief of Engineers dated September 15, 1980, at an estimated total cost of $27,720,000 (October 1984);

(13) Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers dated July 22, 1977, at an estimated total cost of $15,340,000 (October 1984);

(14) Interim Report on Perry Creek, Iowa: Report of the Chief of Engineers dated February 4, 1982, at an estimated total cost of $18,900,000 (October 1984);

(15) Redwood River at Marshall, Minnesota: Report of the Chief of Engineers dated November 16, 1981, at an estimated total cost of $4,283,000 (October 1984);

(16) Root River Basin, Minnesota: Report of the Chief of Engineers dated May 13, 1977, at an estimated total cost of $8,195,000 (October 1984);

(17) South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers dated February 23, 1979, at an estimated total cost of $93,942,000 (October 1984);

(18) Horn Lake Creek and Tributaries, Including Cow Pen Creek, Tennessee and Mississippi: Report of

the Chief of Engineers dated January 4, 1983, at an estimated total cost of $3,400,000 (October 1984);

(19) Robinson's Branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers dated October 10, 1975, at an estimated total cost of $18,320,000 (October 1984);

(20) Rahway River and Van Winkles Brook at Springfield, New Jersey: Report of the Chief of Engineers dated October 24, 1975, at an estimated total cost of $16,938,000 (October 1984);

(21) Green Brook Subbasin, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated September 4, 1981, at an estimated total cost of $76,530,000 (October 1984);

(22) Puerco River and Tributaries, Gallup, New Mexico: Report of the Chief of Engineers dated September 4, 1981, at an estimated total cost of $4,160,000 (October 1984);

(23) Cazenovia Creek Watershed, New York: Report of the Chief of Engineers dated September 8, 1977, at an estimated total cost of $3,025,000 (October 1984);

(24) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut:

Report of the Chief of Engineers dated April 4, 1979, at an estimated total cost of $59,960,000 (October 1984);

(25) Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers dated June 23, 1978, at an estimated total cost of $7,760,000 for Logan and $8,020,000 for Nelsonville (October 1984);

(26) Miami River, Little Miami River, Interim Report Number Two, West Carrollton, Holes Creek, Ohio: Report of the Chief of Engineers dated December 23, 1981, at an estimated total cost of $6,080,000 (October 1984);

(27) Muskingum River Basin, Ohio: Report of the Chief of Engineers dated February 3, 1978, at an estimated total cost of $4,256,000 for Mansfield (October 1984);

(28) Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers dated November 16, 1981, at an estimated total cost of $133,000,000 (October 1984);

(29) Harrisburg, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated May 16, 1979, at an estimated total cost of $132,900,000 (October 1984);

(30) Lock Haven, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated December 14, 1981, at an estimated total cost of $79,225,000 (October 1984);

(31) Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers dated January 30, 1978, at an estimated total cost of $7,853,000 (October 1984);

(32) Buffalo Bayou and Tributaries, Upper White Oak Bayou, Texas: Report of the Chief of Engineers dated June 13, 1978, at an estimated total cost of $90,670,000 (October 1984);

(33) James River Basin, Richmond, Virginia, Phase I GDM: Report of the Chief of Engineers dated November 16, 1981, at an estimated total cost of $101,200,000 (October 1984);

(34) Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers dated February 8, 1977, at an estimated total cost of $21,940,000 (October 1984);

(35) Yakima-Union Gap, Washington: Report of the Chief of Engineers dated May 7, 1980, at an estimated total cost of $9,323,000 (October 1984);

(36) Metro Denver and South Platte River, Colorado: Report of the Chief of Engineers dated July 14,

1983, at an estimated total cost of $10,563,000 (October 1984); and

(37) Indian River County, Florida: Report of the Chief of Engineers dated December 21, 1981, at an estimated total cost of $4,932,000 (October 1984).

(b) FISH AND WILDLIFE MITIGATION—

(1) Fish and Wildlife Program for the Sacramento River Bank Protection Project, California, First Phase: Report of the Chief of Engineers dated September 1, 1981, at an estimated total cost of $1,415,000 (October 1984);

(2) Davenport, Iowa Local Protection Project—Fish and Wildlife Mitigation Plan: Report of the Chief of Engineers dated July 9, 1979, at an estimated total cost of $497,000 (October 1984); and

(3) Smithville Lake, Little Platte River, Missouri—Plan for Replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at an estimated total cost of $7,870,000 (October 1984).

TITLE IV—PROJECT PROVISIONS

SEC. 401. The authorization for the Lake Brownwood Modification Project, Pecan Bayou, Texas, contained in section 203 of the Flood Control Act of 1968 (82 Stat. 742), is hereby terminated.

SEC. 402. (a) In addition to previous authorizations, there is authorized to be appropriated for the prosecution of the comprehensive plan of development of each river basin or project, that is referred to below by name and date of basic authorization, such sums as are necessary for the Secretary, acting through the Chief of Engineers, to complete the comprehensive plan of development.

Basin	Act of Congress
Alabama-Coosa River Basin	March 2, 1945
Arkansas River Basin	June 28, 1938
Arkansas-Red River Basin	November 7, 1966
Baltimore Harbor	December 31, 1970
Blue River Basin	December 31, 1970
Brazos River Basin	September 3, 1954
Central and Southern Florida	June 30, 1948
Columbia River Basin	May 17, 1950
Connecticut River Basin	June 22, 1936
Cottonwood Creek, California	December 31, 1970
Gulf Intracoastal Waterway, St. Marks, Tampa	August 13, 1968
Mississippi River and Tributaries	May 15, 1928
Missouri River Basin	June 28, 1938
North Branch Susquehanna River Basin	July 3, 1958
Ohio River Basin	June 22, 1936
Ouachita River Basin	May 17, 1950
Red Run Drain and Lower Clinton River	December 31, 1970
Red River Waterway	August 13, 1968
Sabine River Basin	December 31, 1970
Sacramento River Basin	December 22, 1944
San Joaquin River Basin	December 22, 1944
Santa Ana River Basin	June 22, 1936
South Platte River Basin	May 17, 1950
Tampa Harbor	December 31, 1970
Trinity River Basin	October 27, 1965
Upper Mississippi River Basin	June 28, 1938
Wabash River Basin	August 13, 1968
White River Basin	June 28, 1938

(b) The sums authorized by this section include those necessary for the Secretary, acting through the Chief of engineers, to complete local flood protection in the Columbia River Basin, as authorized by Section 204 of the Flood Control Act of 1950 (64 Stat. 178).

SEC. 403. (a) The Secretary, on the recommendation of the Chief of Engineers, is authorized, in his discretion, to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at other points on the system, to any competent state or local authority in the Washington, District of Columbia, metropolitan area in Maryland. All of the expense of installing the connection or connections and appurtenances between the water supply systems and any subsequent changes therein shall be paid by the requesting entity, which shall also pay such charges for the use of the water as the Secretary may, from time to time in advance of delivery, determine to be reasonable. Payments shall be made at such time, and pursuant to such regulations, as the Secretary prescribes. The Secretary may revoke any permit for the use of water at any time.

(b) The Secretary, acting through the Chief of Engineers, is authorized to purchase water from any competent state or local authority in Maryland or Virginia that has, at the time of purchase, completed a connection with the District of Columbia water system. The Chief of Engineers is authorized to pay such charges for the use of the water as the Secretary has agreed upon in advance of delivery.

SEC. 404. Section 110(f) of the River and Harbor Act of 1958 (72 Stat. 303), as amended, is amended by striking the figure "$6,528,000" and substituting the figure "$13,195,000."

SEC. 405. The Secretary of the Army, acting through the Chief of Engineers, is authorized to relocate the boundaries of the City Waterway, Tacoma Harbor, Washington in accordance with the provisions of the report of the Chief of Engineers dated May 3, 1983, at an estimated cost of $5,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. Where a private interest, public body or co-operative proposes to provide the non-Federal share of the costs, as specified in title II of this Act, for any hydroelectric project or facility authorized to be undertaken by the Secretary, including work authorized pursuant to section 502 of this title, the Secretary shall consult with the Secretary of Energy and may enter into agreements with the participating project sponsor and the Secretary of Energy for delivery to the participating project sponsor of electric power generated at the project or facility which is not required for operation of the overall project in consideration for the payment, pursuant to title II of this Act, of costs assigned to hydroelectric power. Subject to the provisions of section 201(b) of this Act power from such hydroelectric projects or facilities shall be made available to project sponsors for a period of up to fifty years from the date the project first becomes operational for hydroelectric purposes, as determined by the Secretary. The Secretary of Energy is authorized to provide services and related facilities in connection with the transmission of such hydroelectric power on a reimbursable basis and to provide equivalent electric power.

SEC. 502. (a) The Secretary is authorized to plan, design, construct, operate, and maintain new or additional hydroelectric generating facilities at any water resources development project of the Department of the Army where the Secretary determines that such development by a non-Federal entity under the Federal Power Act is not advisable. The exercise of the authority conferred in this section shall be subject to the provision of sections 201, 202, and 501 of this Act relating to sharing of project costs and the distribution of power produced.

(b) Before undertaking any work pursuant to this section, the Secretary shall enter into a binding agreement with non-Federal interests which describes the nature, extent, and financing of the project to be undertaken and the respective rights and obligations of the United States and the non-Federal interests.

SEC. 503. (a) The Secretary is hereby authorized to plan, design, and construct, on behalf of non-Federal interests, hydroelectric power generating facilities at authorized water resources development projects of the Department of the Army where hydropower is not authorized and to contract for such work with funds made available by non-Federal interests for such planning, design, and construction.

(b) Before undertaking any work authorized in subsection (a), the Secretary shall enter into a binding agreement with non-Federal interests which describes the nature, extent, and financing of the work to be performed and the respective rights and obligations of the United States and the non-Federal interests, and which inlcudes the provisions specified in section 201(b) of this Act. In the agreement, the non-Federal interests shall agree: (1) to operate and maintain any hydroelectric generating facilities constructed pursuant to subsection (a) in a manner which will not interfere with authorized purposes of the Federal project; and (2) to hold and save the United States free from damages due to or arising from any of the work performed on behalf of the non-Federal interests.

(c) All work authorized in subsection (a) shall be subject to the provisions of the Federal Power Act.

SEC. 504. Section 221 of the Flood Control Act of 1979 (84 Stat. 1831) is amended as follows:

(a) Subsection (b) is amended by deleting the period at the end of the sentence, inserting in lieu thereof a semicolon, and inserting thereafter the following: "*Provided*, That, where the non-Federal interest is the State itself, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with State constitutional or statutory limitations; except that, where the agreement reflects that it does not obligate future appropriations or other funds, the agreement shall provide that the State shall be liable for damages to the United States resulting from the State's failure to appropriate or otherwise provide funds as part of the State's requirements of local cooperation.".

(b) Subsection (e) is repealed, and subsection (f) is hereby redesignated as subsection "(e)".

SEC. 505. Whenever the Secretary transmits a report to Congress recommending implementation of a water resources development project and the Secretary determines that proceeding with advance engineering and design pending authorization of the project is in the public interest, the Secretary, acting through the Chief of Engineers, may initiate advance engineering and design of the project.

SEC. 506. Section 12 of the Water Resources Development Act of 1974 (88 Stat. 15; 33 U.S.C. 579), as amended, is amended as follows:

(1) in the first sentence of subsection (a), insert "and separable project elements" immediately after "authorized projects";

(2) immediately after the first sentence in subsection (a), insert a new sentence that reads: "The Secretary of the Army, acting through the Chief of Engineers, shall use the same discount rate and evaluation procedures in effect for formulation of water resources projects at the time of reevaluation.";

(3) in the second, third, and fourth sentences of subsection (a), insert "or separable project element" immediately after "project" each time it appears;

(4) amend the second sentence in subsection (b) to read: "A project or separable project element on such list shall not be authorized at the end of the first period of ninety calendar days of continuous session of Congress after the date such list is delivered to it.";

(5) in the fourth sentence of subsection (b), insert "or separable project element" immediately after "project" and insert "and separable project elements" immediately after "projects";

(6) in subsection (c) delete "projects" and insert "separable project element" in lieu thereof;

(7) delete subsection (d) and redesignate subsequent subsections accordingly;

(8) in the first sentence of redesignated subsection (d), insert "and separable project elements" immediately after "projects" each time it appears;

(9) in the second sentence of redesignated subsection (d), insert "or separable project element" immediately after "project" each time it appears; and

(10) by adding new subsections (e) and (f) at the end of the section as follows:

"(e) Any study of a work of improvement of rivers or harbors and other waterways for navigation, beach erosion, flood control, and other purposes, which has been authorized to be undertaken by the Secretary of the Army, acting through the Chief of Engineers, pursuant to a statute providing authority for such study, shall no longer be authorized if no funds are obligated for such study within the five-year period preceding the determination.

"(f) When the Secretary of the Army determines that Federal operation and maintenance of any water resources project or separable element thereof under the Secretary of the Army's supervision is no longer in the public interest, the Secretary shall transmit to Congress, in accordance with subsection (b) of this section, a report stating such determination and the reasons therefor. Any project or separable part thereof so identified shall not be authorized at the end of the first period of ninety calendar days of continuous session of Congress after the date such list is delivered to it. For the purposes of this section continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period. The Secretary may salvage such physical features of projects as the Secretary determines may reasonably be used to prosecute authorized civil works activities. All other project features, including real estate interests, shall be reported as excess to the Administrator of General Services for disposal in accordance with applicable law.".

SEC. 507. The Act approved August 8, 1972, Public Law 92-367, is amended by redesignating section 6 as section 7 and adding a new section 6 as follows:

"SEC. 6. The Secretary is authorized to maintain and periodically update the inventory of dams authorized in section 5 of this Act.".

SEC. 508. (a) The California Debris Commission is hereby abolished and the Act of March 1, 1893, ch. 193, (27 Stat. 507; 33 U.S.C. 661-685), as amended is hereby repealed.

(b) All of the remaining authorities, powers, functions, and duties of the California Debris Commission shall be transferred to the Secretary, acting through the Chief of Engineers.

(c)(1) The assets, liabilities, contracts, property, and records of the California Debris Commission, the unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to the Commission, and any funds to be made available pursuant to section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581c) in connection with the functions transferred by this Act, shall be transferred to the Secretary, acting through the Chief of Engineers.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated or as provided by contract.

(3) The Secretary, acting through the Chief of Engineers, is hereby authorized to retain all real property interests presently under the jurisdiction of the California Debris Commission and to take such actions as are necessary to consolidate holdings and perfect title.

SEC. 509. Section 111 of the River and Harbor Act of 1968 (82 Stat. 735, 33 U.S.C. 426i) is amended to read as follows:

"The Secretary of the Army is authorized, at his discretion, to investigate, study, plan, and implement structural and nonstructural measures for the prevention or mitigation of shore damages attributable to Federal navigation works, provided that, a non-Federal public body agrees to operate and maintain such measures, and, in the case of interests in real property acquired in conjunction with nonstructural measures, to operate and maintain the property for public purposes in accordance with regulations prescribed by the Secretary. The costs of implementing measures under this section shall be cost-shared in the same proportion as the cost-sharing provisions applicable to the project causing the shore damage. No project shall be initiated without specific authorization by Congress if the estimated Federal first cost exceeds $1,000,000.".

SEC. 510. (a) Section 15 of the River and Harbor Act of 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended as follows:

(1) by deleting the words "voluntarily or carelessly";

(2) by deleting the words "accidentally or otherwise,"; and

(3) by inserting the words ", lessee, or operator" immediately after the word "owner" in each place it appears.

(b) Sections 19 and 20 of the River and Harbor Act of 1899 (30 Stat. 1154; 33 U.S.C. 414 and 415) are amended by inserting the word "(a)" in front of the first word of each section and adding the following new subsection at the end of each section:

"(b) The owner, lessee, or operator of such vessel, boat, watercraft, raft, or other obstruction as described in this section shall be jointly and severally liable to the United States for the cost of removal or destruction and disposal as described which exceeds the costs recovered under subsection (a). Any amount recovered from the owner, lessee, or operator of such vessel pursuant to this subsection to recover costs in excess of the proceeds from the sale or disposition of said vessel shall be deposited in the general fund of the Treasury of the United States.".

SEC. 511. Notwithstanding any other provision of law, the Secretary may dispose of any vessel, and any related equipment, which is owned by the United States and under the control of the Corps of Engineers and is used for dredging, through sale or lease to a foreign government as part of a Corps of Engineers technical assistance program or to a Federal or State maritime academy for training purposes, or through sale solely for scrap to foreign or domestic interests. Any such vessel shall not be disposed of under this section or any other provision of law for use within the United States for the purpose of engaging in dredging activities. Amounts collected from the sale or lease of any such vessel or equipment shall be deposited into the revolving fund authorized by section 101 of the Civil Functions Appropriations Act, 1954 (67 Stat. 199; 33 U.S.C. 576), to be available, as provided in appropriations acts, for the operation and maintenance of vessels under the control of the Corps of Engineers.

SEC. 512. Section 3036(d) of title 10, United States Code, is amended by deleting the words "and may provide" and adding in lieu thereof the following: "and, on a reimbursable basis, to a State or political subdivision thereof. Services provided to a State or political subdivision thereof shall be undertaken only on condition that—

(1) the work to be undertaken on behalf of non-Federal interests involves Federal assistance; and

(2) the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers. The Chief of Engineers may provide . . .".

SEC. 513. Section 5 of the Act of March 4, 1915 (38 Stat. 1049; 33 U.S.C. 562), is amended by inserting the words "and after the project becomes operational" after the word "Acts" and before the comma.

SEC. 514. (a) Section 208 of the Flood Control Act of 1954 (68 Stat. 1266; 33 U.S.C. 701g) as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

(b) Section 14 of the Act of July 24, 1946 (60 Stat. 653; 33 U.S.C. 701r), as amended, is hereby amended by striking out "$250,000" and inserting in lieu thereof "$500,000".

(c) Section 205 of the Flood Control Act of 1948 (62 Stat. 1182; 33 U.S.C. 701s), as amended, is amended by striking out "$4,000,000" and inserting in lieu thereof "$4,500,000".

(d) Subsection 107(b) of the River and Harbor Act of 1960 (74 Stat. 486; 33 U.S.C. 577), as amended, is amended by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000".

(e) Section 3 of the Act approved August 13, 1946 (60 Stat. 1056; 33 U.S.C. 426g), as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$3,000,000".

SEC. 515. Section 14 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 408) is amended by inserting a colon in place of the period at the end of the section and inserting thereafter: "*Provided further*, That the Secretary may, on the recommendation of the Chief of Engineers, grant permission for the alteration or permanent occupation or use of any of the aforementioned public works when in the judgment of the Secretary such occupation or use will not be injurious to the public interest and will not impair the usefulness of such work.".

SEC. 516. (a) In the event of a declaration of war or a declaration by the President of a national emergency in accordance with the National Emergencies Act (90 Stat. 1255;

50 U.S.C. 1601) that requires or may require use of the armed forces, the Secretary, without regard to any other provision of law, may (1) terminate or defer the construction, operation, maintenance or repair of any Department of the Army civil works project that he deems not essential to the national defense, and (2) apply the resources of the Department of the Army's civil works program, including funds, personnel, and equipment, to construct or assist in the construction, operation, maintenance, and repair of authorized civil works, military construction, and civil defense projects that are essential to the national defense.

(b) The Secretary shall immediately notify the appropriate committees of Congress of any actions taken pursuant to the authorities provided by this section, and shall cease to exercise such authorities not later than one hundred eighty calendar days after the termination of the state of war or national emergency, whichever occurs later.

SEC. 517. In the case of any water resources project which is authorized to be constructed by the Secretary before, on, or after the date of enactment of this Act, construction of which has not commenced before such date of enactment, and which involves congressionally authorized acquisition of lands or interests in lands for mitigation of fish and wildlife enhancement, such lands or interest shall be acquired concurrent with the acquisition of lands and interests in lands for project purposes (other than for mitigation of fish and wildlife losses or enhancement of fish and wildlife), as the Secretary determines appropriate.

Sec. 518. Section 111 of the Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), is amended by (1) inserting "no more than $50,000" in lieu of "$100"; and, (2) inserting a new sentence at the end thereof as follows: "In addition, the Secretary may assess a civil penalty of up to $25,000, per violation, against any person or entity that fails to provide timely, accurate statements required to be submitted pursuant to this section by the Secretary.".

Sec. 519. Section 1 of the Act of June 13, 1902, ch. 1079 (32 Stat. 371; 33 U.S.C. 565), is amended by inserting "except pursuant to section 106 of the Water Resources Development Act of 1985," after the phrase "and no toll shall be imposed on account thereof,".

Sec. 520. Section 210 of the Flood Control Act of 1968 (82 Stat. 746; 16 U.S.C. 460d-3) is repealed.

WATER RESOURCES DEVELOPMENT ACT OF 1985

THURSDAY, MAY 16, 1985

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
SUBCOMMITTEE ON WATER RESOURCES,
Washington, DC.

The subcommittee met at 10:10 a.m., in room SD-406, Dirksen Senate Office Building, Hon. James Abdnor (chairman of the subcommittee) presiding.

Present: Senators Abdnor and Burdick.

Senator **ABDNOR**. The subcommittee will come to order. I am a little bit late and I apologize to our star witness who has been waiting.

Senator **WARNER**. No, no. I had a very pleasant conversation with my good friend, Mr. Burdick.

Senator **ABDNOR**. Today we will be hearing testimony from Members of Congress who have a great interest in this proposed legislation. We are happy to welcome back our good friend, Senator Warner, who is a very active participant in trying to help us come up with some solutions to bring forth the kind of water bill we can pass through the Congress.

We appreciate your help and support. We want you to continue that so we get this legislation passed.

Senator Stafford has a statement that he asks be inserted into the record. We will do that, without objection.

[The statement referred to follows:]

STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Mr. Chairman, I am including for the hearing record a copy of an article that appeared recently in The New York Times. This article concerns the potential increases in the levels of the oceans. That danger poses a real problem for our nation, and underlines the need to approve Section 221 of S. 366.

In addition, Mr. Chairman, I read a most interesting article in The New York Times last Sunday. It concerned the drought conditions in the Northeast, and included an analysis of the problems in New York City. I believe we should also include that in our hearing record.

[From the New York Times]

A DIRE LONG-RANGE FORECAST

(By James Gleick)

As global nightmares go, the greenhouse effect has managed not to keep policy makers awake nights devising plans of action. Scientists see an assortment of theoretical catastrophes just over the horizon, but the more dire their predictions, the more difficult it seems to find an appropriate response.

A new scientific study has confirmed a swiftly changing view of what causes the greenhouse effect—heightening both the urgency of the problem and the difficulty of controlling it. The study finds that the leading role in the earth's warming belongs not to carbon dioxide, as long believed, but to an assortment of rare, mostly artificial gases, many never seen in the atmosphere before the 1960's.

That supports the view of atmospheric scientists that the world is rushing toward global climate change on a startling scale. Already the changes in the atmosphere are thought to have changed the balance of incoming and outgoing energy, holding in infrared radiation the way the glass of a greenhouse does.

Beginning in a decade or two, scientists expect the warming of the atmosphere to melt the polar icecaps, raising the level of the seas, flooding coastal areas, eroding the shores and sending salt water far into fresh-water estuaries. Storm patterns will change, drying out some areas, swamping others and generally throwing agriculture into turmoil. Federal climate experts have suggested that within a century the greenhouse effect could turn New York City into something with the climate of Daytona Beach, Fla.

But the new view of the greenhouse effect, as much as the old, highlights the difficulty of finding practical weapons against what remains an uncertain demon.

So far, the greenhouse effect has not been clearly felt. In the generations since scientists first theorized that increased carbon dioxide would alter the earth's temperature balance by trapping heat in the atmosphere, no one has been able to measure a significant warming. Scientists have explanations for that, and they believe their temperature curves will soon soar off the scale. But for now the greenhouse effect remains part of a hypothetical, if not so distant, future.

Even if officials were moved by the urgency of the problem, it would be hard to know what they should do. The Environmental Protection Agency estimated last year, for example, that a drastic 300 percent worldwide tax on fossile fuels to discourage their use—a tax conceivable in a world of scientists, if not in a world of politicians and business executives—might make a tiny difference of about five years.

So the Government waits. "It's a creeping problem, an incremental problem, and we're very bad at dealing with incremental problems," says Stephen H. Schneider, a climate expert at the National Center for Atmospheric Research. "There always seems to be an intermediate problem of higher value."

Until recently, the culprit seemed to be strictly carbon dioxide, which has been increasing steadily for the last century. But the new study, to be published next month in the Journal of Geophysical Research, confirms that an even greater greenhouse effects is likely to come from 30 or more trace gases, mostly emitted by industry and agriculture. These gases are more efficient at trapping heat on its way out to space, and they are increasing much faster than carbon dioxide.

That seriously complicates the problem of finding effective controls. And it suggests to climate experts that they should be giving more credence to the high end of the most recent predictions. But those predictions have great uncertainty built in. "Whenever you work with a climate model, you are trying to play God," says V. Ramanathan, one of the authors of the new study. For example, as the bright polar icecaps melt, they might reflect significantly less sunlight back to space—and since the earth would then absorb that much more energy, the warming would be amplified. For similar reasons, big changes in temperature could come from small changes in cloud patterns, and scientists aren't sure whether the changes will warm or cool.

ERODED BEACHES

In an October 1983 report, the Environmental Protection Agency estimated that the sea level could rise as much as 11 feet by the end of the next century—or as little as 2 feet. It settled on 5 to 7 feet as the likely range. The higher figure would put substantial pieces of Florida and Louisiana under the waves and flood parts of some coastal cities. Even the lower figure would cut away chunks of shoreline. Experts estimate that a one-foot rise in the ocean could erode 100 to 1,000 feet of sand beach all along the Atlantic and Gulf Coasts.

One certainty is that people will first feel the greenhouse effect not in slight changes but in extremes. Areas that now get severe floods once a century might get them once a decade. Temperate locales will get many more heat waves and many fewer cold snaps. In the long run, to be sure, not all the news would be bad. Plenty of places could benefit from extra warmth, and if the corn belt loses territory to the south it could gain it to the north. But in the century to come scientists expect painful dislocations. Some argue that the Government ought to be aggressive about acting, even in small ways, to buy time. One way or another, a lesson is under way in people ability inadvertently to change the face of the planet.

"The only way to be certain is to perform the experiment on ourselves," says Mr. Schneider. "For better worse, that's what we're doing."

[From the New York Times, May 12, 1985]

LEAKY PIPES AND WASTEFUL HABITS MAKING NEW YORK DRY SPELLS EVEN DRIER

(By Joseph Berger)

Although this has been a particularly parched spring, New York City's shortage of water has been aggravated by wasteful habits of consumption and by leakage through aging pipes, officials and experts say.

"I don't think there's any argument that there's increased demand on the available supply, with the New York City system the same as it was 10 years ago," said Edward A. Karath, chief of the water management section of the State Department of Environmental Conservation.

"The result is, when droughts occur, they have an earlier impact and more of an impact."

Total consumption of water has steadily risen from 1.108 billion gallons a day in 1960 to 1.5 billion gallons a day in 1970 and 1.465 billion last year. This rise occurred at a time when the city's population fell by more than a half a million people, and many water-reliant factories closed.

The average number of gallons consumed daily by each New Yorker has also risen, from 154 gallons in 1960 to 177 gallons in 1970 and 207 gallons last year.

ENOUGH TO FILL A REFRIGERATOR

Experts say this level of 207 gallons—more than enough to fill a large refrigerator—suggests that people have grown used to far too much water.

The loss of water through leaky mains and pipes and from fire hydrants opened by youngsters in the summer is also an important factor, though an ambiguous one because officials confess it is hard to pinpoint precisely how much is lost.

Thomas D. O'Connell, the chief of strategic service for the city's Bureau of Water Supply, says New York now has a fairly "tight" system, with loss through leakage at about 6 percent. Other officials put the loss at double that.

Since the city does not meter homes or apartment buildings, officials cannot know how much of the water pouring out of the reservoirs is actually used and how much is simply seeping into the ground.

Officials in the bureau say, however, that leakage, particularly from pipes in abandoned buildings, was a more serious problem several years ago. Now, they say, the city has begun a more aggressive campaign to find leaks and repair them.

OTHER CITIES STRESS LEAKAGE

Northeast cities metered for decades, such as Boston and Philadelphia, place far more stress on leakage than overconsumption. Since people pay more for using more, overconsumption is not as great a worry.

With rainfall off as much as 30 percent, however, Boston and Philadelphia have joined New York in declaring drought alerts of one form or another. Yet, officials in all three cities agree that rainfall is only part of the picture.

In Philadelphia, Water Commissioner Bill J. Marrazzo says, consumption has declined from 364 million gallons a day in the 1970's to 338 million in the first half of this decade. He attributes the drop to a leak-repair program that has saved 20 million gallons a day, and the installation of locks on hydrants.

Boston, which declared a limited drought watch last week, experienced a gradual rise in consumption in the 1960's and early 1970's. But since 1970 water usage declined from 150 million gallons a day to 127 million gallons a day in 1984. Charles Button, the chief engineer of the Boston Water and Sewer Commission, credits a program that has rebuilt 30 miles of pipes for cutting down on water wastage.

WE'RE NOT ETHIOPIA

"If the water's there and it's in adequate supply, it does no harm to use it," he said. "I cannot in good conscience say we have to adopt a drought scenario. We're not Ethiopia. We don't have to get by on three gallons a day. We just have to think about what we're doing."

The reason for the gradual rise in water consumption in cities like New York, experts say, is that modern life necessitates more water. People are gardening more, building pools, insisting upon dishwashers and washing machines in their apartments.

At the same time, as families grow smaller and more people choose to remain single, the number of households has grown, requiring more labor-saving devices. A single person can use as much water to wash clothes as a person washing for a family of four.

Drought alerts have become almost perennial phenomena in some Northeast areas, Mr. Karath said. In the Delaware River basin, there was a near drought warning in the fall of 1981, a warning in the fall of 1982 and 1983, a near warning in the fall of 1984, and a warning this year. All that occurred despite the fact that the basin—whose reservoirs supply 45 percent of New York City's water and assure the freshwater level in Philadelphia's Delaware River supply—was at 100 percent of capacity in June of 1982, 1983 and 1984.

"If consumption continues to increase," Mr. Karath said, "there will be more frequent periods when supplies will be short and there will be more frequent occurrences of drought watches and drought warnings."

A recent study of New York's last major drought, between 1980 and 1981, has concluded that the lack of rainfall was not severe enough to produce the emergency and that overconsumption was a more likely cause.

The study, by Robert A. Weisman, a doctoral student at the Department of Atmospheric Science at the State University of New York center in Albany, will be published in the July 1985 issue of the Bulletin of the American Meteorological Society.

City residents, Mr. Weisman contends, have grown too dependent on having rainfall above the norm of 44.76 inches a year. Although rains were ample and reservoirs brimming throughout the 1970's, such has not been the case in the 1980's. With New Yorkers accustomed to high consumption, he said, even a mild dry spell produces drastic problems.

By comparison, he said, Boston has not suffered as badly because its reservoirs can more easily accommodate the number of people who use them. Boston's metering, he adds, also helps.

Mr. O'Connell quarrels with Mr. Weisman's specific findings on the 1980-81 drought, observing that the study does not appear to take into account an early dearth in rainfall that left reservoirs at 27 percent of capacity in January and caused an emergency.

But he agrees that overconsumption has created a dependency on high rainfalls. New York's current drought emergency was declared on April 26, with yearly rainfall 12 inches, or 30 percent, below the norm and with the city's three upstate reservoir systems at 62 percent of capacity.

He notes that New York's reservoir system has a "safe yield" of 1.29 billion gallons a day. Using water at that rate, New Yorkers would not deplete the reservoirs if there was a repeat of the worst drought in the city's history, the one in 1965.

But New Yorkers have been consuming at levels far above that. In the event of a drought as severe as the one in 1965, he says, it would take months until the public accustomed itself to lower consumption and achieved the safe yield.

EMERGENCY MEASURES AVAILABLE

Mr. O'Connell does not fear that the the city will run out of water. "It won't be permitted to happen," he said, noting that emergency plans included tapping the Hudson River.

Mr. O'Connell favors metering as a means of creating more consumer accountability. The idea is periodically debated, but has been rejected in part because the costs of installing meters would run well over $150 million.

Currently, only commercial, industrial and institutional buildings are metered in the city. Apartment houses and private homes pay through a formula based on street frontage, building height and the number of water fixtures.

In the meantime, Mr. O'Connell says, conservation should become a habit. "It starts with getting up in the morning and filling the basin when you shave instead of letting the water run down in the basin, or not running the laundry for two pairs of shorts," he said.

He compared conserving water to driving safely—"You should do it all the time, not just after you have an accident."

"Water is cheap," he added, "but once its gone its the most expensive item around."

Senator **Abdnor**. Please proceed.

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator **Warner**. I thank you, Mr. Chairman and Senator Burdick. Those of us in the Senate who support this water bill owe a debt of gratitude to you, Mr. Chairman, and other members of this committee for your unrelenting courage and leadership in this area. It is my hope that this year we can reach our mutual goal.

I certainly commend you for your insight and leadership on water resources issues and for holding these hearings today on S. 366, the Water Resources Development Act of 1985. I am privileged to be a cosponsor of this bill.

I appreciate the opportunity to testify briefly this morning. My colleague, Mr. Trible, will be contributing to this hearing. He will shortly submit his statement for the record.

We have worked as close partners on this issue for the now nearly 7 years I have been privileged to serve here in the U.S. Senate. He formerly, of course, was in the House where he also took a very active role on these issues.

Unfortunately, this morning Senator Trible is chairing a markup of the Commerce Committee, so I am here representing not only myself but also Senator Trible. Senator Trible is also a cosponsor of this legislation.

Regrettably, major public works legislation like S. 366 has not been approved by the Senate since 1976. Of course, that fact is well known to this committee.

I do not need to sit here this morning and tell you how absolutely critical this bill is and how absolutely critical a modern harbor system is to the United States economically and in terms of our national defense.

You know a modern harbor system means jobs for unemployed Americans, a more favorable balance of trade, fulfillment of our national security commitments, a stable source of energy for our allies, and renewal of American competitiveness in international trade.

Mr. Chairman, we have come a long ways together, but we have a long way to go before we get this bill passed in the Senate and onto the President's desk. I am here to volunteer this morning to roll up my sleeves and work along with you and others to get this legislation passed.

I will, under your leadership, seek every legislative avenue available to see that title IX, the National Harbors Improvement Act, is finally enacted into law.

I thank the Chair and members of the committee and the staff for their patience. I shall submit the balance of my statement for the record.

Senator **Abdnor**. Fine. Your entire statement will be made a part of the record.

As I said at the outset, Senator Warner, we have always appreciated your help on this. We have come a long way by working together. We know of your great interest as well as several other key Senators that are interested in this legislation.

I would like to think I am just as determined as you are to get a bill through this time. We have been here long enough. I think the issues are clearcut. We all understand them.

I also know that the minute we hit the floor with S. 366, in the form it is in, including the inland waterways, we are in for a long, hard, and difficult time. I think we are desperately in need of water legislation, at least to go forward with that portion that we can seem to get together on, specifically ports, and with authorization of some of the other projects that are needed in this country, like flood control.

We want to do something with inland navigation too. Nothing would make me happier. As an individual, I am not in the water transportation area of the country, but I am close to it and I know what it means to agriculture, and I want to see something done about it. But I also know all the pitfalls we face before we can do that.

I think we can get most of S. 366 rolling if we can separate inland out and take it to the floor. We can fight out the real problems on inland there. I think we can move this.

I would like to know your thoughts about that.

Senator WARNER. Let me just cite one personal experience that will occur tonight. I am flying down to the Hampton Roads-Norfolk area of my State and 1,200 people are coming to a dinner to listen to me talk about S. 366. That is what they want to hear. It is no tribute to me personally. They just want to receive some message of encouragement that the Congress of the United States is listening to and responding to their needs.

This same type of enthusiasm occurs in every major port city in America. It is not confined to Virginia.

Indeed, I think we are not being responsible as Members of Congress in our continued failure to assist the men and women of America who are willing to work to make these port systems more viable and competitive.

Senator ABDNOR. I certainly know what you are saying. It gets to the point where we think we can work out our disagreements and then we get hung up on a controversial matter like inland. It is going to remain that way.

If I thought something was clearcut that we could move, I would say let's go full speed ahead. But I have talked to Members in general and to some on the other committee who would have jurisdiction on this. Maybe it will come. Maybe we have made some input. But I would like to start moving on this because we have been going over the same old material, the same old problems, the same old solutions. There are only so many. But we think we have finally found something we can come together on.

Would this bill, in this form, without the inland waterway portion, going to the floor take care of your problems for the most part?

Senator WARNER. Yes, Mr. Chairman, they would take care of the problems in Virginia.

Senator ABDNOR. You could live with the subject matter?

Senator WARNER. Yes, sir.

Senator ABDNOR. And the approach we use?

Senator WARNER. Yes, indeed.

Senator ABDNOR. That is encouraging to me. I can't speak for the subcommittee or the full committee. That is what I would like to do as soon as possible. At least I will make an attempt to put my head on the line and say I am going to get this bill out, and I hope to follow with the inland bill.

Senator WARNER. Other industrialized nations throughout the world are moving ahead in this area while the United States stands still.

Senator ABDNOR. That is true.

Senator WARNER. I thank the Chair.

Senator ABDNOR. Thank you very much. Senator Burdick.

Senator BURDICK. We have public witnesses, don't we?

Senator ABDNOR. No. I think they are going to submit their testimony for the record. You can do the same thing, Senator, if you want to. Do it any way you want to do it. Go right ahead.

Senator BURDICK. I ask unanimous consent that my statement be made a part of the record.

Senator ABDNOR. Without objection, so ordered. (See p. 389.)

At least you can tell us about your interest.

Senator BURDICK. I can comment on your comments a minute ago. I think it makes sense if we could make this two bills instead of one. We know we can move the one. That makes sense to me to do that.

Senator ABDNOR. I am really pleased to hear you say that, Senator, because if someone had a better answer——

Senator BURDICK. I am not saying drop it.

Senator ABDNOR. No. I have no intention of doing that. Nothing would make me happier than to get the inlands. But that is a little different problem, I think, than we have finally worked out with the ports. If that had made as much progress, I think we could almost go to the floor and pass it.

But I know and you know what is going to happen. It is going to bog down the entire bill. Maybe we will come up with better answers keeping it separate, because it will get lost in the fight the floor.

Senator BURDICK. As I said, I think it makes a lot of sense to make them separate.

Senator ABDNOR. I am pleased to hear that. I don't know what it will take.

Once again, if I can say, the other witnesses that were to appear have submitted their testimony, and we will submit all of their statements and they will become part of the record.

I appreciate Senator Burdick for submitting his, but his interest is in the Cheyenne.

Senator BURDICK. Several.

Senator ABDNOR. I think they all have chief reports.

Senator BURDICK. They are small, but meritorious.

Senator ABDNOR. There is a lot of that going around. That is right. I am sure they are very meritorious.

That is what we have been talking about. We haven't had an omnibus bill, and we have had a lot of chief reports like the Cheyenne. I would like to see them going ahead and planning for them. There is no sense stopping all water development because we quibble over how we are going to solve our inland water development problems.

So I am happy to have it. Our hope we can get other members of the committee to agree with the way we think and our approach to this problem. If they do, I can see us coming forth with a water bill in the near future.

But again, I am not speaking for the other members, and hopefully when we get settled down here on the budget problem we can get back to doing some serious business on that.

Does anyone else want to appear as a witness at this time? If not, I think we will stand in recess for awhile until one of our witnesses appears.

We will be in recess until a witness comes forth.

[Brief recess.]

Senator **Abdnor**. The meeting will come back to order.

I don't want to rush you, Senator Sasser, but we have been waiting for you with open arms. We are happy to have you.

STATEMENT OF HON. JIM SASSER, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator **Sasser**. Thank you, Mr. Chairman. I apologize if I have delayed you and the committee. I was under the impression I was supposed to be here at 10:45.

Senator **Abdnor**. My staff says you are right on time.

Senator **Sasser**. I was congratulating myself for being a moment early, which, as you know, is something that rarely happens here in the Senate, being early or on time.

Mr. Chairman, I appreciate this opportunity to appear before your subcommittee today. As a cosponsor of S. 366, the water resources development bill, I share your concern and commitment to improving our Nation's very critical water resources. I wish to congratulate this committee and the chairman for forging ahead on this very important legislation.

S. 366 incorporates several projects that are important to my native State of Tennessee. In the interest of time, I will submit for the record, Mr. Chairman, a longer statement, along with materials and photographs and other exhibits which pertain to these projects. But this morning I wish to confine my remarks to section 211 of the water resources bill which concerns the problem of binding future appropriations.

Now, I understand the intent of section 211. In order to proceed expeditiously with various projects, there must be assurances from the local sponsors that they will provide the necessary funding to complete the project.

The proposed section 211 seeks to grant to the States the same status that is provided to the Federal Government vis-a-vis water resources projects. This proposed amendment to the Public Law 91-611, section 221, would allow the States to go ahead and enter into assurance agreements, even though the project funding will be contingent on monies appropriated in the future.

Again, while the intent of the proposed section 211 is clear, I and several of my colleagues, including Senator Gore of Tennessee, Senator Stennis of Mississippi, Senator Ford of Kentucky, and Senators Pryor and Bumpers of Arkansas, fear it does not go far enough in addressing the problems of completing water resources development projects in our particular States.

By letter of March 8, 1985, we contacted this committee to focus attention on this problem. Now, by and large, Mr. Chairman, the local sponsors for many water resources projects are not the States at all but political subdivisions of the States. As you well know, cities, counties and, in our area, levee and drainage districts, all participate as local sponsors for water resources development projects. While the proposed section 211 of S. 366 would allow States to enter into assurance agreements, technically it does not allow the political subdivisions—cities, counties, et cetera—to do so.

The State constitutions of Tennessee, Kentucky, Mississippi, and Arkansas all preclude binding successor legislative bodies as to future appropriations. We are attaching for the record opinions of the State attorneys general and various attorneys on this point of binding future appropriations.

But local sponsors cannot fully fund their portion of projects simultaneously upon entering into assurance agreements. The only way to get around this prohibition is to amend each State's constitution. That clearly is an impractical solution, particularly where you might have two States which share responsibility for a single project. Political subdivisions of neighboring States having a shared responsibility for a water resources projects are prohibited by law from binding future appropriations, notwithstanding the committee's proposed section 211.

The following projects are affected by section 221 of Public Law 91-611: Harris Fork Creek in Tennessee and Kentucky, Nonconnah Creek in Tennessee, Horn Lake in Mississippi and Tennessee, and the west Memphis Eight Mile Creek and Helena projects, all in Arkansas. Under the committee's section 211, these projects would come, I fear, to a grinding halt.

The local sponsor in each instance is a political subdivision of the affected States. Because of the 211 prohibition, Tennessee, Kentucky, Mississippi, and Arkansas simply can't proceed with these projects. Proposed section 211 does not alleviate the problem because it only applies to States.

Let me give an example of the impact of section 211 on the Harris Fork Creek project, a joint project in Tennessee and Kentucky. This is a vital flood control project that would provide necessary channelization protection to urban areas and agricultural lands in Tennessee and Kentucky. The phase I general design memorandum has been completed. The phase II GDM was approved last year, and the environmental impact statement has been filed with the Council on Environmental Quality. And an intensive cultural, historic and archeological resources survey has been completed. The project complies with the Endangered Species Act.

Thus, all of these formidable legislative obstacles, Mr. Chairman, have been complied with, and thus, the Harris Fork Creek project is ready to go to construction. The local sponsors—the city of

Fulton, KY, and the Obion Forked Deer Basin Authority—can't proceed because of the limitations in their respective States' constitutions.

Now, without further amending language, the Harris Fork Creek project and many others simply won't be able to go to construction. And worse still, without further amendatory language, the Harris Fork Creek project and others risk project lapse. I, for one, do not wish to see these projects join the list of lapsed projects under S. 366. Mr. Chairman, I am sure you and your committee will agree this would be a tremendous waste of time and resources.

Therefore, on behalf of myself and my colleagues, Senators Gore, Stennis, Ford, Pryor, and Bumpers, we offer the attached amendment to section 211. This amendment simply states, and I quote:

> Where the nonfederal interest is the state itself, or a body politic of the state which derives its power from the state constitution or is a governmental entity created by the state legislature, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with existing state constitutional or statutory limitations.

Mr. Chairman, I and my colleagues believe that this language would enable States and other political bodies which serve as local project sponsors to execute legally valid agreements in accordance with Public Law 91-611, section 221.

I might say, Mr. Chairman, it has been nearly 9 years, as you know better than I, since the Congress approved an omnibus water resources bill. I have been in the Senate now for 8 years and I have never seen one.

It is my hope that this committee will incorporate into S. 366 the changes that I am requesting today. I look forward to working with you, Mr. Chairman, and the members of this committee to enact into law S. 366.

I thank you for allowing me to appear here this morning to present the views of myself and our colleagues.

Senator **Abdnor**. Thank you, Senator Sasser. We appreciate your coming to our committee and setting forth your problems because we do want to come out with a piece of legislation that will cover as many of our problems as possible and get water development moving once again.

We do go, like you say, to 211, but really are hopeful. As a matter of fact, before you came in, we had Senator Warner here. Of course his big concern is ports. We think we have worked out the problems on that end and hopefully your problem here—I will talk with the rest of the committee—but in my mind we probably won't have many problems on that. We will keep you informed.

But when we do get most of our problems taken care of, we keep coming up with problems on inland. You didn't hear me say this, but my hope is that committee will allow me to separate the inland section into a separate piece of legislation so we can get moving on that part of water development that we can get together on. And hopefully we will on inland. But we know it will be more controversial and has a rougher road to travel.

So we appreciate your bringing this to our attention. It is your four States. Are those the only four in the country that have that same problem? Do you know of other States?

Senator **Sasser**. Including Tennessee, Arkansas, Kentucky, and Mississippi, I believe some 37 States are similarly affected.

Senator **Abdnor**. Thank you. We are happy to have your testimony. You said you had a much more detailed statement.

Senator **Sasser**. Yes. I will ask that the much more detailed statement be made a part of the record.

Senator **Abdnor**. It will.

Senator **Sasser**. Thank you, Mr. Chairman.

Senator **Abdnor**. Thank you.

I think I will once again call for a brief recess until our next witness appears.

[Brief recess.]

Senator **Abdnor**. The subcommittee will come back to order.

We are pleased that Senator Andrews rearranged his schedule to come early because we have had these lapses. For some reason, Senator Andrews, we are moving along more rapidly and with less controversy than we anticipated. So we are very pleased that you made it a point to come early. Thank you.

STATEMENT OF HON. MARK ANDREWS, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator **Andrews**. Mr. Chairman, I am sure that the rapid pace you are following is due to your inspired leadership. Those of us who sit on your side of the table and can get hearings like this to be on time appreciate your effort. This is a tribute to you.

I will be brief to help you out. In S. 366, Mr. Chairman, your subcommittee has before it a comprehensive significant proposal for water resources and for cost-sharing policies to implement those proposals that have an impact and importance in every area of this Nation.

Mr. Chairman, you have done an outstanding job in bringing these diverse issues together in a comprehensive bill that I hope will reach the Senate floor as soon as possible so that the full debate and explanation of the many projects can be shared with all of our colleagues.

The bill contains many features of personal concern and impact on our sister States, the Dakotas. The authorization for feasible and environmentally sound streambank erosion control, which is section 225, page 29, could be important to many of our constituents along the Missouri and other rivers our two States share in common.

S. 366 provides that no additional cost-sharing shall be imposed for projects authorized prior to the enactment of this legislation. This is a critical provision for completing much-needed flood control facility improvements to provide protection for much of the north central area of my State.

Title VII adopts and authorizes a flood control project on the Park River at Grafton, ND. The cost figures in the legislation are overstated, I feel, Mr. Chairman. According to the Corps of Engineers estimates from 1983, the cost of this project is $26 million.

This area has been long studied and the time is at hand to take action to protect both the North Dakota and Minnesota lands which would benefit from such a project.

Yesterday, Mr. Chairman, I joined my colleauge from North Dakota, Senator Burdick, who I understand earlier testified on this bill, in introducing legislation for the Sheyenne and Maple Rivers Control Project. That legislation will no doubt come before your subcommittee in conjunction with your consideration of S. 366. The combined project on the Sheyenne and Maple Rivers would provide protection not only for the rural and urban properties along those rivers but would also parallel and complement the other flood control projects in western South Dakota and eastern North Dakota.

Mr. Chairman, let me point out, I have a little personal experience because I live on the Sheyenne and Maple Rivers, right in the middle of that flooding. Fortunately, my grandfather picked a ridge, and there aren't many of them in the Red River Valley, to put our farm buildings on. So we sit there and look out on 3 miles of water, all the way down to the interstate highway. We see the water move in from the west, to West Fargo, and the thousands of people who make their home there.

We have watched flood fight after flood fight. It is not cost effective. The program calls for a diversion ditch around West Fargo, coupled with a retention structure on the Maple. Those of us who live in the neighborhood and whose families have lived there since before statehood feel that provides the only answer to the problems. The Corps of Engineers feels it has a favorable cost-benefit ratio, and it has the wholehearted support of the community. As a personal note, I would hope we could move on it.

Mr. Chairman, I hope that I will have an opportunity to appear again before you and the committee to tell you even more of the details for the Sheyenne and Maple Rivers Flood Control Project. I could go on for hours on that one, having rowed my own boat around those flood waters, but I don't want to get you off your schedule.

As I said earlier, this is a comprehensive act you are considering. The consideration of inland waterways and the accompanying controversy over user fees could prevent this bill from reaching the floor of the Senate for the full consideration it deserves. I would hope, Mr. Chairman, that you can give some thought to deleting that section, title V of this act, for separate consideration for each of those issues so that the other very important parts may not get caught up in that controversy.

Thank you, Mr. Chairman, for the opportunity of presenting my views to you, and thank you for the great and significant work you are doing for our country in the key position you hold on this very significant legislative committee.

Senator Abdnor. Thank you, Senator Andrews, for those kind words. We have a hard working subcommittee and full committee, but we always get hung up on an issue or two that really keeps us from moving forward.

I was very pleased by a statement you just made, that maybe we could separate the title V out of this bill. I am very much in favor of proposing two bills instead of one and just moving the inland section out and bringing it in as a separate bill because it has a much rougher path to follow than this. We think otherwise in this legislation we have worked out most of the problems with those who are involved and that we can really move forward.

Now I am speaking only as one member of the committee, but I have talked to several others and I have found some interest in this. If I can get an agreement among our members, that is exactly what I would like to do. It would make programs like you are suggesting, projects, much more likely to become feasible if we could do that. So I am pleased to hear you say that. I was about ready to tell you that is what we are going to do, but I do have to talk to the other members.

Senator **Andrews**. I appreciate hearing your views on that, Mr. Chairman. I hesitate to try to make suggestions to a committee on which I don't serve, but it looks to me because of the vital need for a majority of that bill, that it is tough to think that it could be held up because of objection to one section. Certainly that section should rise or fall on its own, and if we could fast track the rest of it, we could move ahead with something vital to the future of our country.

Senator **Abdnor**. I certainly am in total agreement with you. I am happy to say Senator Warner certainly thought it was a good way to go, as did Senator Burdick this morning. Maybe by all of us talking here we can sell this suggestion of two separate bills, not trying to deter or detract anything away from inland, because I want that just as badly, except I know the obstacles that are in the way. I think the rest of the bill would go forward immediately if we could get that kind of support. We just have to take on inlands later and do the best we can and get something passed.

Senator **Andrews**. Thank you very much.

Senator **Abdnor**. Thank you very much. I appreciate your coming over here.

Senator Sarbanes, happy to have you. We welcome your appearance here.

STATEMENT OF HON. PAUL S. SARBANES, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator **Sarbanes**. Thank you, Mr. Chairman. I know it has been a busy morning for the committee. I will try to be brief. We have a prepared statement to include in the record.

Senator **Abdnor**. We will include it.

Senator **Sarbanes**. I will summarize.

Mr. Chairman, I want to commend you and the subcommittee for holding hearings on this important legislation early in the session. I don't think I have to recount to you the urgency of clarifying the Federal Government's role in dredging our Nation's deep water harbors.

The Baltimore Harbor was authorized almost 15 years ago to be deepened from 42 to 50 feet. The State of Maryland undertook certain actions in response to that and has more than met its obligations in preparing to undertake the project.

Mr. Chairman, earlier this year I joined you and Senator Moynihan and my colleague from Maryland, Senator Mathias, in introducing S. 366, the omnibus water resources bill. This legislation is, of course, similar to the bill reported by your committee last year.

It recognizes that the Baltimore project has been authorized for almost 15 years and was authorized on the premise that it would be eligible for 100 percent Federal funding, which was, of course, the system we operated under in this country from virtually the very beginning of the republic when that judgment was made in terms of the national significance of the deep water harbors.

Maryland has undertaken significant expenditures in building a dredged disposal site that cost in excess of $55 million. The legislation that has been introduced provides a 75 percent Federal funding for deepening the Baltimore Harbor channels to the authorized 50 feet.

Maryland is prepared to move ahead. They have in effect placed their financial house in order to respond to their responsibilities that would be required under the legislation that is before the committee and would enable them to move ahead quickly on this project.

The administration proposal, S. 534, I think is completely inadequate in meeting the needs of dredging our harbors. It does not recognize the need to go, at least in certain places in the country, to the 50-foot depth and its implications on our national interest.

Ours is a great maritime trading Nation. The committee has recognized this fact over the years. I think your action in reporting responsible legislation last year, to continue the role of the Federal Government in dredging and maintaining the Nation's ports, is a tribute to your understanding and the understanding of the committee of these needs.

The Federal Government has historically played a key role in maintenance and improvement of our deep-draft commercial ports.

I simply want to note, Mr. Chairman, that there are very important benefits that derive to our Nation from the availability of these harbors, benefits I think that were recognized beginning in the time of Henry Clay when he led the national effort for a federal role in these public improvement developments. Those historical arguments are now bolstered by balance of payments considerations, questions relating to the energy situation, national security considerations, and international economic concerns.

Given the economic problems we face and the international opportunities available to us, it is more urgent than ever to proceed with this legislation and to break the deadlock which has existed with respect to moving on port facilities. I applaud your ongoing commitment to America's ports and urge the committee to report S. 366 to the Senate so that we can get on with the important task of maintaining our competitive position in the international environment.

This legislation represents a reasonable, sensible approach to the problem. It recognizes that a wise and prudent investment will represent a strengthening of our nation's economic potential and its economic future.

Again, Mr. Chairman, I thank you for convening these hearings early and for continuing to focus your own attention on this very important problem.

Senator **ABDNOR**. Thank you, Senator Sarbanes. We want to thank you, too, for supporting our legislation. This does represent several years of trial, and not error, but trial and differences of opinion that we think now we pretty well have consensus with those who are deeply concerned with this legislation.

I am hoping that in order to get something moving and finally get water development going again—this country has waited long enough—I would like to break S. 366 into two different sections, taking title V out and making a separate inland water projects piece of legislation, because it is still very, very controversial. I hate to go to the floor and get into a hassle on something that is liable to slow the whole package up.

In saying that, I want you to know I am pretty much at this point speaking only on behalf of myself. I have talked to a few of the members. Some of them have thought it has a lot of merit, including Senator Moynihan. We would just like to get legislation moving. We think we have something in S. 366 that we could sell. We also know the many pitfalls of the section on inlands. It should stand on its own. Those who have wide differences can debate it and come up with, hopefully, a solution. In the meantime, all that goes with S. 366 I think could be on its way to coming along, we hope.

So I was wondering, do you have any concerns about that approach?

Senator SARBANES. Mr. Chairman, I would be happy to consult with you and other members of the committee on the legislative strategy. I have not thought carefully about that up to this point, but I would be happy to consult with you.

I must say that I have moved my position. As you well know, I have traditionally taken a very strong position for the maintenance of the complete Federal role. I recognize the circumstances under which we are operating, and I think that you have tried with respect to the deep-water port problem to craft a sensible, reasonable, constructive approach. I very strongly commend the initiative and the leadership which you have shown in that regard.

Senator ABDNOR. I certainly thank you for that. We have tried hard. Our staff and your staff and others of the various Senators have spent a lot of hours on it. We think, as with all of the major bills, there has to be give-and-take on all sides to make something finally happen.

We have done that. We are now ready to move forward. So we hope we have some progress coming very soon on this legislation. Thank you for your appearance.

Senator SARBANES. I hope so, too. Thank you, Mr. Chairman.

Senator ABDNOR. I am happy to see Senator Mathias has just walked in. We ask you to come up. We will let you be the concluding witness.

We welcome you, Senator Mathias. We have had a lot of discussions with you, and particularly your staff with my staff. I think we are close to some agreements here on legislation and we could move forward. We are happy to hear from you today.

STATEMENT OF HON. CHARLES McC. MATHIAS, U.S. SENATOR FROM THE STATE OF MARYLAND

Senator MATHIAS. Thank you very much, Mr. Chairman, for giving me the last word. And to show my gratitude, I will make it a brief word.

I will start out by asking consent that my full statement may be included in the record.

Senator ABDNOR. Your entire statement will be made a part of the record.

Senator MATHIAS. In my statement you will find many of the things you and I have discussed over the years, both publicly and privately. I think you understand the Baltimore situation fully.

My purpose really in coming today, in addition to submitting the statement, is to thank this committee for its very clear comprehension of the national interest that is involved in this legislation. I think you, Senator Sarbanes and I, represent symbolically that interest. You come from a great inland agricultural State. We represent a coastal maritime State. Yet, it is perfectly clear that we each have an interest in the welfare of the other.

One third of America's agricultural acreage today is cultivated for the purpose of export. Unless there are proper facilities to carry on international trade, the markets of the world aren't going to be available. It is just as simple as that. We are talking about an investment in the future.

You have perceived that with great clarity. I just am here to thank you for it and support the bill that you have been able to fashion.

Senator ABDNOR. I want to thank you. You certainly know how to win a chairman over in a hurry. Those kinds words on agriculture put me solidly on board.

Senator MATHIAS. That is where we want you to be.

Senator ABDNOR. Let me tell you, I want to say to you we wouldn't have legislation if you weren't wilting to sit down and help us work out a solution that would satisfy all parties concerned. On this water legislation, all express the need, like we express everybody is for cutting the deficit. But we have our own way of wanting to do it. I guess that is the way we want to build ports and inland and everything else.

But in this case we had a great victory, thanks to the help of people like you, and particularly you, to come up with a solution that is acceptable. Now it is just a matter of getting it passed.

You probably heard me say to Senator Sarbanes a minute ago that I am giving thought to seeing if the membership would go along with the committee to break this into two bills because we haven't found a solution yet to the inland section, title V. Do you have any objections if we were to go to the floor with two different bills?

Senator MATHIAS. My initial reaction to that would be I would have no objection at all.

Senator ABDNOR. We certainly hope we can do that. We want to get it started and going. This is ready to go if we could just have that title V worked out. We haven't. We will take it to the floor as soon as we can. But I want to see some progress. The need is there for water legislation. As pointed out today, it has been since 1976 that something was done on it.

So with your help, we are going to hopefully move forward. Again, I particularly want to thank you for all of the help you have given us on this.

Senator MATHIAS. Thank yo

Mr. Aronson. Thank you.

I think that winds it up.

With that, that concludes our hearing. Hopefully in the very near future we can talk about a markup of this legislation. I thank everyone for attending.

The meeting stands adjourned.

[Whereupon, at 11:27 a.m., the subcommittee was recessed, to reconvene subject to the call of the Chair.]

[Statements submitted for the record follow:]

TESTIMONY OF SENATOR JOHN W. WARNER
S.366, WATER RESOURCES DEVELOPMENT ACT OF 1985
MAY 16, 1985 - 10:15 A.M. - 410 DIRKSEN SOB

MR. CHAIRMAN,

I COMMEND YOU AND THE OTHER MEMBERS OF THE SUBCOMMITTEE FOR YOUR INSIGHT AND LEADERSHIP ON WATER RESOURCES ISSUES AND FOR HOLDING THESE HEARINGS TODAY ON S.366, THE WATER RESOURCES DEVELOPMENT ACT OF 1985.

AS A COSPONSOR OF S.366, I APPRECIATE THE OPPORTUNITY TO TESTIFY.

MY COLLEAGUE FROM VIRGINIA, MR. TRIBLE, AND I HAVE BEEN CLOSE WORKING PARTNERS ON PORTS ISSUES.

HE HAD HOPED TO BE HERE WITH ME TO TESTIFY.

UNFORTUNATELY, HE IS CHAIRING A MARKUP OF THE SENATE COMMERCE COMMITTEE SO, MR. CHAIRMAN, I AM SUBMITTING FOR THE RECORD A STATEMENT FROM MY DISTINGUISHED COLLEAGUE, SENATOR TRIBLE, WHO IS ALSO A COSPONSOR OF THIS LEGISLATION.

REGRETTABLY, MAJOR PUBLIC WORKS LEGISLATION LIKE S.366 HAS NOT BEEN APPROVED BY THE SENATE SINCE 1976.

IT IS LONG OVERDUE.

I DO NOT NEED TO SIT HERE THIS MORNING AND TELL YOU HOW ABSOLUTELY CRITICAL THIS BILL IS, AND HOW ABSOLUTELY CRITICAL A MODERN HARBOR SYSTEM IS.

YOU KNOW A MODERN HARBOR SYSTEM IS IN THE STRONG NATIONAL INTEREST OF THE UNITED STATES.

YOU KNOW A MODERN HARBOR SYSTEM MEANS JOBS FOR UNEMPLOYED AMERICANS, A MORE FAVORABLE BALANCE OF TRADE, FULFILLMENT OF OUR NATIONAL SECURITY COMMITMENTS, A STABLE SOURCE OF ENERGY FOR OUR ALLIES, AND A RENEWAL OF AMERICAN COMPETITIVENESS IN INTERNATIONAL TRADE.

MR. CHAIRMAN, WE'VE COME A LONG WAY TOGETHER, BUT WE HAVE A LONG WAY TO GO TO GET THIS BILL PASSED BY THE SENATE AND ON THE PRESIDENT'S DESK.

I'M HERE TO VOLUNTEER TO ROLL UP MY SLEEVES, BURN THE MIDNIGHT OIL--I MEAN COAL--NECESSARY TO GET THIS BILL PASSED.

I WILL SEEK EVERY LEGISLATIVE AVENUE AVAILABLE TO SEE THAT TITLE IX, THE NATIONAL HARBORS IMPROVEMENT ACT, IS FINALLY ENACTED INTO LAW.

I RULE OUT NO OPTIONS AND PLEDGE MY STRONGEST EFFORTS.

THE NATIONAL HARBORS IMPROVEMENT ACT IS FAR FROM PERFECT, BUT I BELIEVE IT IS A WORKABLE COMPROMISE WHICH SETS A PRECEDENT IN CHANGING TRADITIONAL FUNDING PATTERNS FOR NAVIGATION IMPROVEMENTS.

IT DESERVES CONSIDERATION BY THE FULL SENATE.

THE BILL CONTAINS SEVEN ESSENTIAL ELEMENTS:

- AUTHORIZES NAVIGATION IMPROVEMENTS AND ALLOWS THEM TO BE CONSTRUCTED IN SEGMENTS;
- PROVIDES FOR COST-SHARING BETWEEN THE FEDERAL GOVERNMENT AND LOCAL PORTS TO FUND HARBOR IMPROVEMENTS AT ALL DEPTHS;
- TREATS PORTS OF SIMILAR DEPTHS EQUITABLY AND DOES NOT PUT ONE PORT AT A COMPETITIVE DISADVANTAGE WITH ANOTHER;
- ALLOWS NON-FEDERAL INTERESTS TO ACCESS PORT SPECIFIC USER FEES TO RECOVER THEIR COSTS;
- GIVES PORTS THE FLEXIBILITY TO STRUCTURE THE FEES TO THEIR PARTICULAR SITUATION AND ALLOWS THOSE FEES COLLECTED TO BE UTILIZED FOR CHANNEL IMPROVEMENTS ONLY AT THE PORT WHERE COLLECTED;
- FAST TRACKS FEDERAL PLANNING AND PERMITTING PROCESS;
- ALLOWS FOR FEDERAL GOVERNMENT GUARANTEES OF OBLIGATIONS INCURRED BY NON-FEDERAL INTERESTS FOR CHANNEL IMPROVEMENTS.

ADDITIONALLY, I COMMEND THE COMMITTEE FOR INCLUDING FOUR OTHER VITALLY IMPORTANT VIRGINIA PROJECTS.

THE WATER RESOURCES DEVELOPMENT ACT OF 1985 INCLUDES AUTHORIZATION FOR THE $5.4 MILLION SEAWALL TO PREVENT EROSION OF TANGIER ISLAND, THE $94 MILLION JAMES RIVER BASIN FLOOD CONTROL PROJECT IN RICHMOND, THE $2 MILLION WILLOUGHBY SPIT SHORELINE PROTECTION PROJET, AND THE $2 MILLION HAMPTON ROADS DEBRIS REMOVAL.

As the Committee moves forward towards a markup of S.366, I would like to revisit the merits of four additional navigation and beach nourishment projects for the City of Virginia Beach.

Virginia Beach is the nation's largest resort inland area, and it continues to experience the most rapid population growth rates on the Atlantic Seaboard.

The availability of suitable beaches will have a positive influence on the future growth and sustained prosperity of this area.

As approval of the Beach Erosion Control and Hurricane Protection plan by the Chief of Engineers is imminent, I urge the Committee to include this project in S.366.

The U.S. Army Corps of Engineers is engaged in a 25-year annual beach nourishment program with Virginia Beach that is scheduled to expire in February, 1987.

It appears likely that the beach nourishment provisions of the more comprehensive Beach Erosion Control and Hurricane Protection Plan will not be active by that date, and I request the Committee to include the necessary authority for the Corps of Engineers to administratively extend the existing agreement until the new plan is in place.

I have long supported Congressional authorization for the modification of the Long Creek Canal project.

SUCH ACTION IS NEEDED TO REIMBURSE THE CITY OF VIRGINIA BEACH FOR $1.63 MILLION FOR REMEDIAL WORK DONE ON THE LONG CREEK CANAL BY THE CITY OF VIRGINIA BEACH AS A RESULT OF DAMAGE CAUSED BY THE U.S. ARMY CORPS OF ENGINEERS.

THE CORPS HAS ADMITTED ITS WORK NECESSITATED MODIFICATION OF THE CANAL PROJECT, BUT THE CORPS IS NOT PERMITTED UNDER CURRENT LAW TO REIMBURSE THE CITY FOR THE COSTS INCURRED FOR THE MODIFICATION.

I ALSO COMMEND FOR YOUR ATTENTION THE RUDEE INLET NAVIGATION PROJECT.

THE CORPS OF ENGINEERS WOULD MAINTAIN A CHANNEL DEPTH OF TEN FEET, AND HAS GIVEN THE PROJECT A BENEFIT-COST RATIO OF 1.8 TO 1.

THANK YOU AGIN, MR. CHAIRMAN, FOR THE OPPORTUNITY TO TESTIFY, AND LET'S GO TO WORK.

STATEMENT BY SENATOR QUENTIN N. BURDICK ON S. 366
BEFORE THE
SENATE ENVIRONMENT & PUBLIC WORKS WATER RESOURCES SUBCOMMITTEE
MAY 16, 1985, 10:00 a.m.

I would like to thank the Water Resources Subcommittee for holding two hearings on the water resources omnibus bill. I realize that the bill before the Subcommittee represents the culmination of many months of discussion and debate on the Administration's attempt to consolidate federal water projects' cost-sharing policies.

At present, the Federal Government lacks a unified national policy for constructing and sharing the costs of joint federal/state water projects. Instead, a series of major federal water resources acts have gradually shaped the current water resources development programs. Over the years, inland and coastal navigation, flood control, irrigation, water supply, hydroelectric power, and other development purposes have been added to the list of projects that can be undertaken by about 25 federal water agencies.

As a result of this gradual policy making, cost-sharing rates for similar water projects differ under different agencies' programs; and even within one agency, rates may differ for technical solutions to the same problem. While this causes some confusion among nonfederal participants, there are several more important ramifications. Inconsistent cost-sharing policies provide incentives for local sponsors to "shop around" for the best cost-sharing deal, rather than the most efficient solution to a water resources problem.

The proposal before the Subcommittee asks states or other nonfederal participants to bear more costs for jointly developed water projects. While this approach will take limited federal dollars and stretch them over a larger number of projects, I hope that Congress will be realistic in setting a cost-sharing policy that local sponsors can pay.

In regard to flood control, the 1936 Flood Control Act established the Federal Government's role in working with local entities. Subsequent acts have enlarged the federal role, in the name of flood plain management, to include alternatives in controlling flood waters, reducing the likelihood of property damage, and preventing human and financial loss.

Typically, flood control projects are split 80/20 on a federal match. Under the bill, nonfederal sponsors would have to contribute 35 percent of project costs, including lands, easements, and rights-of-way. This cost-sharing ratio may be too high for some states and local entities. I realize that it is difficult to pick a number which would be acceptable to diverse interests. However, the final solution should provide as much flexibility as possible for local entities, if raising capital would place an undue burden on the sponsors.

In regard to the inland waterway user fee section of the bill, I would recommend that the Subcommittee seriously consider deleting it from the bill. It is no secret that I oppose inland waterway user fees because of the carry-over effect on farmers. However, I know the issue will not go away and Congress will need to deal with the issue sooner or later. However, the issue is so controversial it could keep this bill from being reported out of Committee and passing the Senate. I would urge the Finance Committee to exercise its jurisdiction by developing a tax scheme for the Committee to consider inland waterway user fees in a separate bill.

There are several other items in the bill that I would like to discuss:

Section 225. I support this section, which provides the Corps $15 million each year to plan and construct small streambank erosion control projects costing less than $2 million. Streambank erosion is a serious problem on the Upper Missouri, where banks have eroded an average of 8 to 10 feet a year, with serious loss of productive farmland.

Section 604. I support the language which requires no additional cost-sharing or repayment by a nonfederal sponsor if federal funds have already been expended on the project. This language would apply to Lake Darling, an integral part of the flood control measures on the Souris River to prevent serious and recurrent flooding that affects thousands of people in Minot and the outlying areas. Flood protection planning has been in progress since 1957, and more than $25 million has been spent since 1969 for emergency flood fighting activities in Minot and surrounding areas.

Project 68. I support the Park River Project at Grafton, North Dakota. I truly appreciate the funding level of $126 million included in the bill. It would appear that the original project costs of $26 million have greatly increased with inflation.

Yesterday, Senator Andrews and I introduced a bill to provide flood control relief to southeastern North Dakota. The Corps is in the final process of recommending the Sheyenne River Flood Control Project to Congress for authorization.

This project was developed by the Corps and North Dakota as a substitute for the 1970 authorized Kindred Lake Project. The selected plan provides relief to urban communities, but affords little protection to surrounding agricultural lands. Because economic losses to agriculture were not considered, the Corps could not include a mainstem dam on the Maple River in the selected project. That is unfortunate.

The Maple River empties into the Sheyenne River and flows to meet the Red River of the North. The point at which they join is the major urban area protected under the Corps' recommended project. A Maple River Dam would benefit the overall flood control effort planned by the Corps, and at the same time, protect farmlands.

I would respectfully request the Subcommittee to review the Maple River portion of the bill for inclusion in S. 366. For your information, I have attached for the Subcommittee's record my floor statement on the Sheyenne and Maple River projects.

I would like to thank my colleagues for the opportunity to present my views on the pending water resources legislation.

STATEMENT BY SENATOR QUENTIN N. BURDICK
MAY 15, 1985

Mr. President, I rise today to introduce a combined Sheyenne and Maple River Flood Control Project. I would like my colleague, Mr. Andrews, to be listed as a cosponsor and for his remarks to appear in the Record following mine.

The Sheyenne and Maple River Flood Control Projects are the result of federal, state, and local efforts to develop acceptable alternatives to the Kindred Lake Project which was authorized in the 1970 Flood Control Act. The Army Corps of Engineers recommends that Congress deauthorize Kindred Lake and authorize the Sheyenne Flood Control Project in its place. The project consists of levees and diversion channels at West Fargo and Riverside; a flood diversion channel from Horace to West Fargo; and raising the Lake Ashtabula reservoir pool level five feet behind the existing Baldhill Dam.

The federal cost is estimated at $26.2 million with $15.1 million for the levees and channels and the remaining $11.1 million for raising the pool reservoir. Nonfederal interests will cover approximately 45 percent of the project which has a 6:7 cost benefit ratio.

The public has voiced considerable objection to raising the Lake Ashtabula pool reservoir. The State and the Corps have agreed to separate the pool reservoir portion of the project, and proceed with the levees and channels. According to the Corps, project separation will not affect the integrity of the urban flood protection design. A final decision on the pool reservoir is not expected until 1990. The State and the Army Corps have agreed to review alternative plans to be developed and presented by the Upper Sheyenne Joint Water Resources District. The District supports authorization of the entire project; however, it reserves the right to object to raising the pool reservoir. As a safeguard to the compromise, I will request appropriate report language which will prohibit the use of Corps planning funds for raising the reservoir pool until the State of North Dakota agrees to sponsor that portion of the project.

We intend that the final decision on the reservoir pool should not delay the Chief of Engineers' plan to modify the Baldhill Dam for dam safety considerations. The modifications will address only the current deficiencies of an inadequate spillway capacity, and the stability of the embankment, which has shown distress.

Besides the Corps-recommended flood control project on the Sheyenne, this bill includes the Maple River Project. The Maple River empties into the Sheyenne River three miles north of West Fargo. From this point, the two flow north and east to join the Red River five miles northeast of Harwood.

The Corps, the State Water Commission, and local water resource districts have analyzed the Maple River Watershed. It is clear that a dam on the main stream of the Maple River north of Enderlin would be of significant benefit in reducing flood damages on the lower Sheyenne. The Corps has not been able to come up with the cost/benefit ratio required to justify federal participation. A Corps project requires each individual component of a plan to stand on its own before it can be included in an overall flood control project.

In the case of the Maple River Project, the Corps did not consider the economic impact of agricultural losses. This is indeed unfortunate. The Federal Government must consider the major reductions in flood levels or flood damages on agricultural lands. In 1975, the President twice announced disaster declarations for eastern North Dakota. The spring flood was declared on May 24; the summer flood on July 11. Losses to both public and private properties in the eastern part of the State were estimated at $550 million. The greatest losses occurred to crops destroyed in the summer flood.

The 1975 floods had the following impact on Cass County, the primary beneficiary from the proposed Sheyenne and Maple River Project:

--Agricultural Stabilization and Conservation Service (ASCS) annual report showed a $1.8 million disaster payment for crop damage estimated at $62,029,385 over 426,400 acres.

--North Dakota Crop and Livestock reporting service statistics showed 169,000 crop acres abandoned due to flooding.

--Losses to public property, roads, bridges, etc. were estimated at $2.5 million. The State Disaster Emergency Services distributed $1,740,491.45 to Cass County political subdivisions for emergency repair.

--Other government funding included an estimated $280,000 by the Corps for flood-fighting activities; $40 million in emergency loans through the Farmers Home Administration and Small Business Administration; $250,000 by the U.S. Department of Agriculture for emergency conservation measures; and $200,000 for mosquito spraying through the Federal Emergency Management Agency.

--Ring dikes were built following the flood to protect urban property: $75,000 for the historic village of Bonanzaville; $1 million Corps project for Argusville City; and $45,000 in Raymond Township to protect 80 acres.

The communities and farmers along the Sheyenne and Maple Rivers are interested in a 100-year flood protection project. It is estimated that a flood in this area could cause $700 million in damages, with the greatest impact in the area where the Sheyenne and Maple Rivers flow together to join the Red River. In light of the potential damage, and the role of the Federal Government in helping communities and states recover from flood disasters, I think that $15 million spent on a dam now would be a sound and wise investment.

I would request that the bill be printed in full following my remarks.

TESTIMONY OF SENATOR JIM SASSER

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. Chairman, and members of the Committee. I appreciate the opportunity to appear before this Subcommittee today. As a cosponsor of S. 366, the Water Resources Development bill, I share your concern and commitment to improving our nation's critical water resources. I congratulate this Committee for forging ahead on this important legislation.

S. 366 incorporates several projects that are important to my State of Tennessee. In the interest of time, I will submit for the record a longer statement, along with materials, which pertain to these projects.

This morning, I wish to confine my remarks to section 211 of the Water Resources bill which concerns the problem of binding future appropriations.

I understand the intent of section 211. In order to proceed expeditiously with the various projects, there must be assurances from the local sponsors that they will provide the necessary funding to complete the projects.

The proposed section 211 seeks to grant to the states the same status that is provided to the federal government vis a vis water resources projects. This proposed amendment to Public Law 91-611, section 221 would allow the states to go ahead and enter into assurance agreements even though the project funding will be contingent on monies appropriated in the future.

Again, while the intent of the proposed section 211 is clear, I and several of my colleagues, Senators Gore, Stennis, Ford, Pryor, and Bumpers, fear that it does not go far enough in addressing the problems of completing water resources development projects in our states. By letter of March 8, 1985, we contacted this Committee to focus attention on this problem.

By and large, the local sponsors for many water resources projects are not the states, but political subdivisions of the states. Cities, counties, levee and drainage districts all participate as local sponsors for water resources development projects. While the proposed section 211 of S. 366 would allow states to enter into assurance agreement, technically, it does not permit political subdivisions to do so.

The state constitutions of Tennessee, Kentucky, Mississippi, and Arkansas all preclude binding successor legislative bodies as to future appropriations. Attached for the record are opinions of State Attorneys General and Attorneys on this point of binding future appropriations.

Local sponsors cannot fully fund their portion of projects simultaneously upon entering into assurance agreements. The only way to get around this prohibition is to amend each state's constitution. I believe that this is an impractical solution, particularly where two states share responsibility for a projects. Political subdivisions of neighboring states having a shared responsibility for a water resources project are prohibited by law from binding future appropriations, notwithstanding the Committee's proposed section 211.

The following projects are affected by section 221 of Public Law 91-611-- Harris Fork Creek, Tennessee and Kentucky, Nonconnah Creek, Tennessee, Horn Lake, Mississippi and Tennessee, and the West Memphis, Eight Mile Creek, and Helena projects, all in Arkansas. Under the Committee's section 211, these projects will come to a grinding halt. The local sponsors, in each instance, is a political subdivision of the affected states. Because of the 221 prohibition, Tennessee, Kentucky, Mississippi, and Arkansas can't proceed with these projects. Proposed section 211 does not alleviate the problem because it only applies to the states.

One example of the impact of the Committee's section 211 is the Harris Fork Creek Project in Tennessee and Kentucky. This is a vital flood control project that would provide necessary channelization protection to urban areas and agricultural lands in Tennessee and Kentucky. The Phase I General Design Memorandum has been completed. The Phase II GDM was approved last year. The Environmental Impact Statement has been filed with the Council on Environmental Quality and an intensive cultural, historic, and archaeological resources survey has been completed. The project complies with the Endangered Species Act. Thus, the Harris Fork Creek Project is ready to go to construction. The local sponsors-- the City of Fulton, Kentucky, and the Obion Forked Deer Basin Authority can't proceed because of the limitations in their respective state's constitutions.

Without further amending language, the Harris Fork Creek project and many others won't be able to go to construction. Worse still, without further amendatory language, the Harris Fork Creek project and others risk project lapse. I, for one, do not wish to see these projects join the list of lapsed projects under S.366. Mr. Chairman, this would be a tremendous waste of time and resources.

Therefore, on behalf of myself and Senators Gore, Stennis, Ford, Pryor, and Bumpers, I offer the attached amendment to section 211. This amendment simply states that "where the non-federal interest is the state itself, or a body politic of the state which derives its power from the state constitution or is a governmental entity created by the state legislature, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with existing state constitutional or statutory limitations.

I believe that this language would enable states and other public bodies that serve as local project sponsors to execute legally valid agreements in accordance with Public Law 91-611, section 221.

S. 366 also includes several other projects of concern to Tennessee. For many years now, Memphis and Shelby County have been plagued by persistent flooding. The Nonconnah-Johns Creek projects, upon completion, will provide critical flood control protection. These flood control projects will save many lives and minimize the extent of property damage from ravaging floodwaters. For the Committee's record, I have attached a detailed description of these projects. In addition, I am also enclosing photographs of the affected areas.

The Memphis Harbor Project is located on President's Island in the Mississippi River. The Mississippi River is one of this nation's key transportation links. The proposed dredging of a new navigation channel into President's Island will open up this region to increased water transportation activities. This is important because if America is to become more competitive in world markets, the Mississippi River and the Memphis Harbor will contribute to such an effort.

Lastly, S. 366 includes a $50 million for the Big South Fork National River and Recreation Area. The Big South Fork project has been a tremendous addition to this area of Tennessee and Kentucky, which have been beset with higher unemployment and a lower per capita income than any other area of the country. The continued development of this area will provide an appreciable boom to the local economies, in addition to offering one of the finest recreational facilities in the nation. A key component of the Big South Fork development plan will be providing access throughout the area.

In this regard, I am proposing for the Committee's consideration report language in conjunction with the Big South Fork project. Highway #27 between Harriman and Oneida is a critical section of the Big South Fork area. Partial construction is underway along Highway #27, however, additional work needs to be completed to provide through access. Therefore, in the Committee's report accompanying S. 366, I believe that it would be beneficial to include the following language at the appropriate section relating to the Big South Fork National River and Recreation area --

"The Committee, in requesting an authorization of $50 million for the Big South Fork National River and Recreation area, recognizes that economic development is essential to this area. Improved access is vital to this development. The Committee recommends that, in utilizing the $50 million authorization, special consideration be given to upgrading and improving access highways, such as Highway #27 between Harriman and Oneida, Tennessee.".

Again, I appreciate this opportunity to testify on S. 366. I look forward to working with the Committee to enact an omnibus water resources bill very early in the 99th Congress.

Section 221 of the Flood Control Act of 1970, as amended (42 U.S.C. 1962d-5b), is amended as follows:

Subsection (b) is amended to read as follows:

"(b) A non-Federal interest shall be a legally constituted public body with full authority and capability to perform the terms of its agreement to pay damages, if necessary, in the event of failure to perform; Provided that, where the non-Federal interest is the State itself, or a body politic of the State which derives its powers from the State constitution or is a governmental entity created by the State Legislature, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with existing State constitutional or statutory limitations."

State of Tennessee

OFFICE OF THE ATTORNEY GENERAL
450 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37219

January 27, 1982

Mr. Charles Perkins, Chairman
Chickasaw Basin Authority
Room 619, Shelby County Office Bldg.
160 North Mid-America Mall
Memphis, Tennessee 38103

Re: Nonconnah Creek Project

Dear Mr. Perkins:

The purpose of this letter is to provide the opinion of the Attorney General of the State of Tennessee as to the legal ability of the State and the Chickasaw Basin Authority to participate in the Nonconnah Creek project of the United States Army Corps of Engineers. The responsibilities which the Corps of Engineers seeks to impose on the State and the Chickasaw Basin Authority through contractual agreements are enumerated in the General Design Manual (GDM) for the Nonconnah Creek project, pages 107-108 and Appendix VI. These requirements are intended to implement P.L. 91-611 § 221 and P.L. 91-646. The obligations proposed are discussed individually below.

(1) "The State will contribute 5 percent of the total project first cost."

Article II § 24 of the Tennessee Constitution provides that "no public money shall be expended except pursuant to appropriations made by law." That provision goes on to impose a number of limitations on the appropriations and expenditures which may be made in any given year. It essentially precludes deficit spending. This section has been interpreted to prevent the Legislature from making irrevocable appropriations for a period beyond the term of its existence. *Lynn v. Polk*, 76 Tenn. 121 (1881).

The authority to incur obligations is also limited by statute. T.C.A. § 9-6-114 provides "No appropriations shall confer authority to incur an obligation after the termination of the fiscal year to which it relates." T.C.A. § 9-7-101 further provides, "No money shall be drawn from the state treasury except in accordance with appropriations duly authorized by law." T.C.A. § 9-6-113 also states, "No department or officer under said department shall enter into any contract, agreement, or obligation, involving the expenditure of money, unless the commissioner of finance and administration shall first certify that there is a balance in the appropriation from which such obligation is required to be paid, that is not otherwise encumbered to pay obligations previously incurred."

In light of these constitutional and statutory requirements, any agreement by the executive branch to provide funds for the project would need to be contingent upon action by the legislature appropriating sufficient funds for the specified contribution to the project.

(2) "The local sponsor(s) will:

(a) Contribute 20 percent of the total first cost of the flood control features.

(b) Obtain all lands, easements and rights of way (excluding rights of way for actual relocations and alterations of bridges and utilities) at a reasonable value based on appraisals approved by the District Engineer necessary for the construction and maintenance of the flood control features of the project, with the federal government reimbursing the local sponsor(s) for any amounts expended in excess of the contribution of 20 percent of the total first cost for the flood control features....

(d) Maintain (including appropriate replacement) and operate all completed works and project features, in a manner satisfactory to the Secretary of the Army.

(e) Provide access required for the recreational features and contribute funds equal to 50 percent of the first costs associated with recreational facilities.

(f) Obtain all lands required for establishment of the nature area feature of the project at a reasonable value based on appraisals approved by the District Engineer, with the federal government reimbursing the local sponsor(s) for any amounts expended in excess of the required 25 percent of the cost of facilities for the nature area feature of the project."

The Chickasaw Basin Authority is a legally constituted public body created by T.C.A. §§ 66-1-201 et seq. It has broad powers to acquire and convey land, to enter into contracts, to plan, construct and operate works "related to water resources, development, conservations, and open space," and to coordinate such projects with other agencies of federal and local government. See T.C.A. §§ 66-1-202, 66-1-204. These powers clearly include the authority to acquire lands, to provide available funds for the construction and maintenance of the flood control project and ancillary facilities, to accept partial reimbursement from the federal government as quoted above, and to enter into contracts and agreements to carry out these purposes.

As quoted above, the GDM requires lands to be acquired "at a reasonable value based on appraisals approved by the District Engineer." It should be noted that the Chickasaw Basin Authority has the power to accept gifts of land. T.C.A. § 66-1-204(14). Thus, some land might be acquired at no cost rather than on the basis of an appraisal.

Although the Chickasaw Basin Authority can acquire land by purchase, it must depend on the cities and counties in the area to acquire land by eminent domain. Any limitations on the exercise of eminent domain powers would consequently require the agreement of the affected local entities. The basis for determining the amount of reimbursement in eminent domain proceedings is discussed at greater length below in connection with P.L. 91-646.

There are several other important limitations on the Chickasaw Basin Authority's powers which relate to the sources of the Authority's funding and the continued existence of the Authority.

The Chickasaw Basin Authority is jointly funded by state and local funds. T.C.A. § 66-1-205. The Authority has the power to issue bonds, but "any bond issue wherein the general obligation of the State of Tennessee is attached must first be approved by the General Assembly of the State." T.C.A. § 66-1-205(1). The State of Tennessee may sell bonds to provide funds for the Chickasaw Basin Authority, if the General Assembly approves (T.C.A. § 66-1-205(2)), or it may provide funds otherwise appropriated for Authority purposes (T.C.A. § 66-1-205(3), (5)).

Whatever the source of the state funding, the funds depend upon the availability of local matching funds. Counties and municipalities are authorized to appropriate funds for the Chickasaw Basin Authority from their general funds, or to issue general obligation bonds. T.C.A. § 66-1-205(4). Thus, the continued funding of the Authority depends upon the action of both the General Assembly and the local governing bodies.

As a state agency, the Chickasaw Basin Authority is subject to state fiscal requirements. T.C.A. §§ 66-1-205(5) provides: "[T]he Authority shall be operated as a state agency subject to all fiscal requirements and procedures which apply to other state departments and agencies, and subject to joint local funding as stipulated in this part." Consequently, the constitutional and statutory constraints on the amount and use of state appropriations, addressed in the preceding section, apply equally to the Chickasaw Basin Authority. In light of those constraints, the Authority may accept contractual obligations only to the extent that current funding is sufficient to cover the cost of performance.

In addition, any contract which the Chickasaw Basin Authority might wish to enter into, to purchase land or construct facilities, would be subject to state contracting requirements, including: approval of building plans by the State Building Commission, T.C.A. §§ 4-15-101 et seq.; state prevailing wage laws, T.C.A. §§ 12-4-401 et seq.; state bidding provisions, T.C.A. §§ 12-4-101 et seq.; and requirements for approval by the Department of Finance and Administration, T.C.A. § 4-3-107(2).

Aside from funding and contracting requirements, the effects of the state "Governmental Entity Review Law" should also be noted. T.C.A. § 4-29-204 provides that the Chickasaw Basin Authority will cease to exist as of June 30, 1983. To continue in existence, the Chickasaw Basin Authority must be reestablished by the Legislature in accordance with the review provisions of T.C.A. §§ 4-29-101 et seq. If the entity is terminated, it has until June 30, 1984 to wind up its affairs. T.C.A. § 4-29-112.

Tennessee Code Annotated, Section 4-29-113 addresses the effect of an entity's termination on outstanding claims:

> This chapter shall not cause the dismissal of any claim or right of any person against any governmental entity or any claim or right of any governmental entity terminated under this chapter which is the subject of litigation. Such claims and rights shall be assumed by the state as of the date of termination.
>
> If any entity terminated under the provisions of this chapter has any outstanding bonds or other indebtedness, the state shall preserve the rights of the holders of such bonds or other indebtedness and the obligations and rights of such entities shall accrue to the state.

While this section would govern any indebtedness of the Chickasaw Basin Authority and any claims in litigation at the time of termination, it does not express any commitment on the part of the State to ensure that the Chickasaw Basin Authority's functions and activities, such as maintenance of projects, will continue to be carried out. This potential problem could be circumvented if the federal government entered into an agreement not only with the Chickasaw Basin Authority as local sponsor, but also with the State as a whole.

(3) "The local sponsor(s) will....(c) Hold and save the United States free from damages due to the construction, operation and maintenance of the project, excluding damages due to the fault or negligence of the United States or its contractors."

There is nothing in the statute establishing the Chickasaw Basin Authority which would authorize it to enter into an agreement to hold the United States harmless from damages as described above. The Attorney General has consistently taken the position that such agreements are beyond the powers of state officials and are contrary to public policy except as explicitly authorized by the Legislature.

The General Assembly through legislation could approve such an agreement, however. While the prohibitions of the Tennessee Constitution, Article II, Section 31, prevent the credit of the State from being "loaned or given to or in aid of any person, association, company, corporation, or municipality," it has been held that this section does not encompass the lending of credit to the United States. *Malone v. Peay*, 159 Tenn. 321, 17 S.W.2d 901 (1929). Even with legislative approval, though, an agreement to make such payments would have to be contingent upon future appropriations, in light of Article II § 24, as discussed earlier.

(4) "The local sponsor will...(h) Comply with the provisions of the Uniform Relocations Assistance and Real Property Acquisition Policy Act of 1970, Public Law 91-646."

Public Law 91-646 contains two sets of requirements, the first (Title II) pertaining to relocation assistance, and the second (Title III) pertaining to real property acquisition. Tennessee's Uniform Relocation Assistance Act of 1972, T.C.A. §§ 13-11-101 et seq., contains provisions substantially identical to the relevant sections of Title II. State law thus already imposes on the Chickasaw Basin Authority the duty to provide the relocation assistance contemplated by Title II. The language on payment for damages in Sections 302, 303, and 304 of Title III is likewise virtually identical to sections of the state's eminent domain law describing reimbursement of property owners. T.C.A. § 29-16-114 and 29-17-812.

State law does not contain any explicit requirements which parallel the policy statements in Title III, Section 301. Section 305, however, requires state agencies participating in federal programs to follow Section 301 policies only "to the extent practicable under state law." There consequently should be no legal impediment to the Chickasaw Basin Authority's complying with Section 301 to the extent required.

It should be emphasized that the Chickasaw Basin Authority does not exercise the power of eminent domain, but rather depends upon the cities and counties within the area to exercise the power of eminent domain on its behalf. T.C.A. § 66-1-204(15). Thus, any obligations affecting the way in which the power of eminent domain will be exercised would require the cooperation and agreement of the local governing bodies.

(5) "The local sponsor will...(i) Comply with the provisions of Section 221 of the Flood Control Act of 1970, Public Law 91-611."

Section 221 of P.L. 91-611 provides in relevant part:

> (b) A non-Federal interest shall be a legally constituted body with full authority and capability to perform the terms of its agreement and to pay damages, if necessary, in the event of failure to perform.
>
> (c) Every agreement entered into pursuant to this section shall be enforcible in the appropriate district court of the United States.

The authority of the Chickasaw Basin Authority to enter into the agreement contemplated has already been discussed in an earlier part of this opinion. The enforcibility of an agreement in federal court remains to be addressed.

The Chickasaw Basin Authority has the power "to sue and be sued in corporate name" and "to enter into contracts and cooperative agreements with state, federal and local governments." T.C.A. § 66-1-204(2), (4). These provisions establish certain capacities of the Chickasaw Basin Authority, but in the opinion of this office they do not constitute a waiver of sovereign immunity. The State has waived its sovereign immunity to suits by private parties only to the extent that suits for breach of contract may be brought in the circuit and chancery courts of Davidson County, Tennessee, T.C.A. § 29-10-101, and to the extent that claims may be presented to a board of claims, T.C.A. §§ 9-8-101 *et seq*.

The power of the United States to enforce an agreement with the Chickasaw Basin Authority in federal court appears to be a matter of federal constitutional law. While the Eleventh Amendment protects the sovereign immunity of states in private suits, the states are deemed to have waived their sovereign immunity in suits brought by the United States. *E.g.*, *United States v. California*, 328 F.2d 729 (9th Cir. 1964), *cert. denied* 379 U.S. 817. *See also* 81A C.J.S.States §300. Under Article III, § 2 of the United States Constitution, as implemented by 28 U.S.C. § 1345, United States District Courts have jurisdiction of suits brought by the United States. Thus, a federal district court would have jurisdiction of a suit by the United States to enforce an agreement by the Chickasaw Basin Authority, to the extent that the State has waived its sovereign immunity under the United States Constitution.

I hope that the foregoing discussion adequately addresses the various legal concerns affecting the proposed agreement. If I can be of further assistance, please let me know.

Sincerely,

William M. Leech, Jr.
Attorney General

WML/gh

xc: Phillip Whittenberg
Warner Hodges, III
✓Bruce M. Smith

LAW OFFICES OF
MILLER & NANNEY
313 MAIN STREET
FULTON, KENTUCKY 42041

May 21, 1982

Hon. Charles Briggs
Office of Legal Counsel
U. S. Corps of Engineers
Federal Building
Memphis, Tennessee

Re: Harris Fork Creek Project

Dear Mr. Briggs:

Your office has requested an opinion from the City of Fulton on the validity, under Kentucky law, of the proposed local cooperation agreement for the work to be performed on the Harris Fork Creek by U. S. Corps of Engineers. It is our understanding that the City of Fulton will be required to make certain assurances to the Federal Government before the project may continue into the construction phase.

In order to obtain further authority on this issue, the questions raised on the proposed agreement were submitted to the Attorney General of Kentucky for his opinion. A formal opinion (OAG-235) was issued to this office on April 30, 1982.

After review of OAG-235 and its supporting opinions, it is the opinion of this office that the City of Fulton cannot enter into the local cooperation agreement as proposed. The proposed agreement requires the City to "maintain and operate" the project after completion without cost to the United States. It is the opinion of this office that this clause violates Sections 157 and 158 of the Kentucky Constitution which prohibits a city from obligating itself above the anticipated revenues of the initial year of the agreement.

Further, the maintenance clause would violate the rule against one legislative body binding future legislative bodies where the action of the governing body is legislative and governmental as opposed to business or proprietary in nature. It is my opinion and that of OAG 82-235, that the adoption of the proposed agreement by the Fulton City Commission would be a legislative action and could therefore not be binding on future commissions. It would therefore be impossible for the present commission to bind the City to operate and maintain the project into the future without limit.

Finally, it is my opinion that the City Commission should not enter into any agreement which will hold the U. S. Government harmless for damages resulting from the project. Reference is made to the OAG 82-235.

Under these circumstances, this office would have no choice but to advise the present City Commission that it cannot legally enter into the local cooperation act as presented by the U. S. Corps of Engineers. If I may be of further assistance, please advise.

Respectfully yours,

Thomas A. Nanney

Thomas A. Nanney
City Attorney

TAN:jth

COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

April 30, 1982

Thomas A. Nanney, Esq.
City Attorney, City of Fulton
313 Main Street
Fulton, Kentucky 42041

Dear Mr. Nanney:

This is in reply to your letter questioning the validity of a proposed contract between the City of Fulton, Kentucky, and the United States of America, United States Army Corps of Engineers. The contract concerns the expansion and improvement of the Harris Fork Creek which runs through the city.

Attorneys for the Corps of Engineers have advised the city that certain provisions of the proposed contract have caused problems in other states. They refer specifically to subsections (b) and (d) of numerical paragraph one, providing that the city shall hold and save the United States free from damages due to the construction and subsequent maintenance of the project, except damages due to the fault or negligence of the United States or its contractors, and requiring the city to maintain and operate the project works after completion without cost to the United States in accordance with regulations prescribed by the Secretary of the Army. Attorneys for the Corps of Engineers concede that objections to those two subsections of paragraph one of the proposed contract have involved prohibitions against cities entering into indemnity agreements, contracting debts of indeterminate amounts for indefinite periods of time, entering into agreements which irrevocably bind future governing bodies and waiving sovereign immunity.

The Corps of Engineers wants the city of Fulton to provide a legal opinion as to whether the provisions of the proposed contract present a problem under Kentucky law. It was suggested that the city consult this office for guidance in the matter.

In OAG 78-452, copy enclosed, we dealt with a watershed project in a city. The United States Soil Conservation Service developed a watershed project which included floodwater retarding structures and a riprap channel. The operation and maintenance of the completed project was to be performed by the city at an estimated annual cost of $1240 which was to come from the city's general fund. The Soil Conservation Service requested that the city enter into a long-term operation and maintenance agreement. Such a proposed agreement involved a question of whether the present city legislative body could bind its successors for the operation and maintenance of the project and whether such an agreement would violate sections 157 and 158 of the Kentucky Constitution prohibiting a city from obligating itself over a period of years and thus exceeding the anticipated revenue for the initial year of the agreement.

As to the power of a city council to enter into a contract that will extend beyond the term of its members, we pointed out in OAG 78-452 that a distinction is to be made as to whether the proposed contract is legislative or governmental in nature or whether it is of a business or proprietary nature. In 56 Am.Jur.2d, Municipal Corporations, Etc., § 154, the following appears:

> ". . . Thus, where the contract involved relates to governmental or legislative functions of the council, or involves a matter of discretion to be exercised by the council unless the statute conferring power to contract clearly authorizes the council to make a contract extending beyond its own term, no power of the council so to do exists, since the power conferred upon municipal councils to exercise legislative or governmental functions is conferred to be exercised as often as may be found needful or politic, and the council presently holding such powers is vested with no discretion to circumscribe or limit or diminish their efficiency, but must transmit

> them unimpaired to their successors. But in the exercise of the business powers of a municipal corporation, the municipality and its officers are controlled by no such rule, and they may lawfully exercise these powers in the same way, and in their exercise the municipality will be governed by the same rules which control a private individual or a business corporation under like circumstances...."

In McQuillin Mun.Corp. (3rd Ed.), Vol. 10, § 29.101, the following appears:

> "... Respecting the binding effect of contracts extending beyond the term of officers acting for the municipality, there exists a clear distinction in the judicial decisions between governmental and business or proprietary powers. With respect to the former, their exercise is so limited that no action taken by the governmental body is binding upon its successors, whereas the latter is not subject to such limitation, and may be exercised in a way that will be binding upon the municipality after the board exercising the power shall have ceased to exist...."

As to the application of the constitutional provisions we again refer to OAG 78-452 where we said:

> "Next concerning the possible constitutional objection, the courts have declared that the entire amount of the obligation for whatever number of years must be considered in the initial year in determining the total indebtedness

> that the city will be obligated for as opposed to its anticipated revenue for said year. Thus, if the total indebtedness exceeds the anticipated revenue in the initial year, § 157 would be violated. See Board of Education of Christian County v. Board of Trustees of Hopkinsville Public Schools, 154 Ky. 309, 157 S.W. 697 (1913)...."

In OAG 77-322, copy enclosed, which dealt with a proposed agreement between a county and the County Soil Conservation Service, whereby the county would maintain a flood control structure, we said that if the maintenance agreement involved expenditures of county funds over a number of years and a financial obligation beyond a fiscal year's budgeting, Section 157 of the Kentucky Constitution would be violated. The requirement of "pay-as-you-go" expressed in the Constitution, means that obligations cannot be created to be paid out of revenues to be collected after the termination of the fiscal year. See also OAG 77-549, copy enclosed, involving a watershed plan agreement among various governmental entities, including a county government and the United States Soil Conservation Service.

In connection with the clause of the proposed contract that states that the city will hold and save the United States free from damages due to the construction and subsequent maintenance of the project, except damages due to the fault or negligence of the United States or its contractors, the federal government acknowledges that such a provision has been troublesome for many cities for a variety of reasons. While we have already discussed the prohibitions against entering into an agreement which irrevocably binds future governing bodies and contracting debts of indeterminate amounts for indefinite periods of time, we will now attempt to address the issues of indemnity agreements and municipal sovereign immunity.

In New York Central Railroad Co. v. General Motors Corp., 182 F.Supp. 273, 290-291 (N.D. Ohio, E.D. 1960), the Court said:

> "'Indemnify against liability': The distinction between an agreement to 'indemnify against liability' and an agreement to 'idemnify against loss' is that in the former a breach of contract occurs the moment liability is imposed on the party to be indemnified and a cause of action at once arises, while in the latter there is no breach of contract on which action can be maintained until obligee has sustained loss. In re National Surety Co., Sup., 29 N.Y.S.2d 1011, 1016, 1017.
>
> 'Hold harmless' means to assume all expenses incident to the defense of any claim and to fully compensate an indemnitee for all loss or expense, undiminished by the costs of defending a claim or litigation."

In Standard Accident Insurance Company v. City of Pineville, 339 F.2d 169, 170 (6th Cir. 1964), the Court said:

> "...It is Kentucky law that although the city might be liable to travelers for failure to warn of a dangerous condition in its highways created by the negligence of another, it has a right to recover against the one who created the condition. E.g., Board of Councilmen v. Vanarsdall, 148 Ky. 507, 147 S.W. 1 (1912); Blocker v. City of Owensboro, 129 Ky. 75, 82, 110 S.W. 369, 371 (1908); Western Union Telegraph Co. v. City of Louisville, 160 Ky. 499, 169 S.W. 994 (1914)...."

In 17 Am.Jur.2d, Contracts, § 188, the following appears:

> "Generally, parties may agree to waive contract, statutory, or other rights unless a question of public policy is involved.
>
> It is not the rule that any agreement by any person which assumes to place another person at the mercy of his own faulty conduct is void as against public policy. However, the law does not look with favor on provisions which relieve one from liability for his own fault or wrong. It is a well-settled general doctrine that the law will not sustain a covenant of immunity which protects against fraud or relieves one of a duty imposed by law for the public benefit. It has been held that clauses limiting liability are given rigid scrutiny by the courts, and will not be enforced unless the limitation is fairly and honestly negotiated and understandingly entered into; this is especially true where the contract involves services of a public or semipublic nature, but has also been applied in some controversies involving private contracts, particularly where, as in the case of a public or semipublic contract the private contract is the only means one of the parties has of filling an important need...."

While municipalities in Kentucky are no longer immune from tort liability and the ancient doctrine of municipal sovereign immunity from tort has been abandoned, there are limitations on municipal liability. Where a city's act affects all members of the general public alike, it would be unreasonable to apply to it the broad principles of tort liability. City of Louisville v. Louisville Seed Company, Ky., 433 S.W.2d 638 (1968). Where a city undertakes measures for the protection of its citizens, it is not held to the same standards of performance that would be required of a professional organization. When a city is engaged in a municipal function affecting all members of the general public, the city owes no duty to particular individuals unless it deals with them on an individual basis. *Frankfort Variety, Inc. v. City of Frankfort*, Ky., 552 S.W.2d 653 (1977). See also *Grogan v. Commonwealth*, Ky., 577 S.W.2d 4 (1979) and *Com., Dept. of Banking & Securities v. Brown*, Ky., 605 S.W.2d 497 (1980).

Public funds are to be expended for public purposes and we have doubts as to the validity of a city agreeing to assume a financial obligation for which it may not be legally liable or relinquishing a right to recover funds to which it is legally entitled. See also OAG 81-418, copy enclosed.

Since the water improvement and expansion project involved in your factual situation appears to involve, as did the watershed development project dealt with in OAG 78-452, the exercise of governmental or legislative powers or the exercise of discretion, as opposed to the exercise of business or proprietary powers, the city legislative body may not enter into a contract to obligate itself to operate and maintain the project beyond the term of its members. In addition, the constitutional debt limit question could be involved where the agreement extends for many years as a city cannot become indebted in an amount exceeding in any year the income and revenue provided for such year. Perhaps the proposed agreement could be made renewable at the option of successive legislative bodies, rather than utilizing a long-term agreement, which would avoid the problems associated with a council binding its successors and creating an indebtedness in an amount exceeding in any year the income and revenue provided for that year.

Even if the city can satisfactorily resolve the matters of a contract extending beyond the term of the members of the legislative body and the constitutional debt limit requirements, the use of the so-called "hold harmless" provision in the proposed contract presents additional problems. We have serious doubts as to whether a city can agree to such a provision in this situation as the city may be agreeing to expend public funds in a situation where it has no liability and it may be relinquishing a right to recover funds from the entity who is responsible for creating the condition resulting in liability.

Sincerely,

STEVEN L. BESHEAR
ATTORNEY GENERAL

By: Thomas R. Emerson
Assistant Attorney General

TRE:lb
Encls.

SENATOR CHARLES McC. MATHIAS, JR.

I am pleased to have the opportunity to testify in support of S. 366, the Water Resources Development bill, because it provides the fairest cost-sharing approach for channel deepening projects now before the Senate.

The Committee is to be commended for its attempts to end the moratorium on dredging by fashioning a funding method that would allow the start of a number of port development projects, including one long delayed in the Port of Baltimore.

No one knows better than I how frustrating it can be to develop a consensus on an appropriate funding formula for channel deepening projects. So, I am particularly appreciative of your efforts.

I have been working for fifteen years to get the 50 foot channel deepening project in Baltimore underway. It was authorized in 1970. For the next ten years it encountered legal and regulatory barriers. But we managed to overcome them, and in 1980 the project was ready to begin. Then we were faced with another hurdle. We had to find a way to finance the project. Under the Law, the project was entitled to 100 percent federal funding. But the rules of the game had changed and the Administration and the Congress were exploring new methods to fund channel deepening projects. The growing deficit required the states to share in some of the cost.

I supported the concept of cost-sharing then and I support it now. The problem five years ago was that the concept was relatively new and no funding formula existed. We have spent the better part of the last five years working with the Administration and the Congress to come up with a reasonable formula for deep draft projects. The Committee's bill, which establishes a fair and equitable funding formula for the Baltimore project and other deep draft projects, is a significant breakthrough in this regard.

The bill requires the federal government to pay 75 percent of the cost of the project while requiring the state of Maryland to absorb the remaining 25 percent. This is consistent with the funding requirements for every other previously authorized project grandfathered into the bill. Moreover, it is a cost which the state of Maryland can afford. In fact, Maryland has already identified how it would raise its share of the cost.

On the other hand, the Administration's bill, S. 534, would impose upon our port system cost-sharing requirements that are both unreasonable and inflexible. Under that bill, the state of Maryland would have to pay 70 percent of the project up to 45 feet and be required to bear the total cost beyond that point. That translates into a hefty sum of $293 million for the $330 million 50 foot dredging project. This $293 million cost is on top of the $53 million that the State of Maryland has already borne on the Hart-Miller disposal site.

For cost-sharing to be fair and realistic, the federal government must be held responsible to bear at least half the financial burden as called for in Senator Abdnor's bill.

America's deep water ports are a precious national asset. They must be competitive if the Nation's economy is to retain its health. They are a vital part of our country's infrastructure.

In 1981, I held hearings as Chairman of the Senate Foreign Relation's Subcommittee on International Economic Policy on "U.S. Competitiveness in the International Coal Trade". The hearings affirmed dredging our harbors is an economic necessity. It will enhance our coal trade and thereby help our balance of trade. It will provide jobs for the coal industry, the railroads and the port.

Despite the compelling need for deeper channels, no dredging project has started for ten years. The United States has suffered the consequences of not having deeper channels. Channel inadequacies add to the price of U.S. coal at a time when we must keep our price low and supply reliable to remain competitive in the international energy markets. Since the coal boom of 1981, we have lost a large share of the coal market to other coal producing countries. We cannot afford to let that continue to happen.

It is crucial to break the logjam on deepwater projects. The Committee's bill is a giant step in that direction. I urge the Committee to do what it can to assure passage of the bill in this session of Congress. I pledge to work with the Committee towards that objective.

STATEMENT OF
SENATOR PAUL S. SARBANES

Mr. Chairman, I want to thank you for the opportunity to testify before the Committee on S. 366, the Omnibus Water Resources bill, and to commend you for holding hearings on this important legislation early in the session. I need not recount for you the urgency of clarifying the Federal Government's role in dredging our nation's harbors. It has been almost 15 years since the Congress authorized the deepening of the Baltimore Harbor from 42 to 50 feet, and the State of Maryland has more than met its obligations in preparing to undertake the project. No new projects have been authorized in years.

In January, I joined you, Mr. Chairman, Senator Moynihan, and my colleague from Maryland, Senator Mathias, in introducing S. 366, the Omnibus Water Resources bill. This legislation is similar to the bill reported by your Committee last year. In last year's measure and S. 366, a provision has been included to recognize that the Baltimore project has been authorized for almost 15 years and is in fact eligible for 100 percent Federal funding now. In addition, it recognizes the substantial investment already made by Maryland in building the dredge disposal site at Hart-Miller Islands at a cost of $55 million. This provision provides for 75 percent Federal funding for deepening the Baltimore Harbor channels to the authorized depth of 50 feet.

The State of Maryland has taken extraordinary steps to ensure that the project can start up on this cost-sharing basis as soon as

Federal funds are available. Governor Harry Hughes wrote to the leadership of the Maryland General Assembly earlier this year indicating the steps he was taking to provide the State's share of the project's cost.

> "Because of the importance of the dredging project to Maryland's economy, we need to be in a position to take advantage of Federal funds and get the project started as soon as Federal funding becomes available. As far as Maryland's participation is concerned, I want you to know that the State is in a position to proceed with this project. The Maryland Department of Transportation can accomodate the assumed State funding requirements. . ."

The Governor has outlined a responsible fiscal plan to cover cost-sharing by the State of Maryland. These provisions include use of existing State revenue from the Transportation Trust Fund, the issuance of bonds, and possible sale of the World Trade Center in Baltimore. No other jurisdiction is prepared to move this swiftly on any major port dredging project.

As I indicated, I am a cosponsor and strong supporter of S. 366, the bill providing 75 percent Federal funding for the Baltimore project. I would like to discuss for a moment the legislation proposed by the Administration, S. 534, in the Senate. This bill provides only 30 percent Federal funding for the

Baltimore project for a depth of 45 feet and no Federal funding for dredging deeper than 45 feet. In essence it requires local jurisdictions to pay 100 percent of dredging beyond 45 feet. I strongly oppose this short-sighted and unworkable approach and urge you to reject it.

Mr. Chairman, ours is a great maritime trading nation. This Committee has recognized that indisputable fact over the years, and your action in reporting responsible legislation last year to continue the role of the Federal Government in dredging and maintaining this nation's ports is a tribute to your broad understanding of those needs. The Federal Government has historically played the central role in the maintenance and improvement of our deep-draft commercial ports. S. 366, as introduced in January, clearly acknowledges this Federal responsibility.

Mr. Chairman, you and Senator Moynihan have worked hard to break the deadlock in passing water resources legislation. I applaud your on-going commitment to America's ports, and I urge you to report S. 366 to the Senate so that we can get on with the important task of maintaining the competitive position of our ports.

STATEMENT OF HON. MARK HATFIELD, U.S. SENATOR FROM THE STATE OF OREGON

Mr. Chairman and Members of the Committee:

I appreciate having the opportunity to provide testimony on S. 366, a bill to authorize water projects and to set out a new policy for the development of our nation's water resources. I want to take this time to commend the Chairman and his members for their continued efforts towards developing our infrastructure.

My remarks will be brief and to the point. The Committee has developed a good starting point for breaking the logjam over the proper role of the federal government in water resources development. I firmly believe that Congress can change this nation's longstanding policy of completely funding navigation maintenance and new construction without jeopardizing the commercial viability of our ports or inland waterway system. To that end, I would like to make a few suggestions, which in my view would improve the legislation and make it more acceptable to a broader range of waterway interests.

These are the basic points:

- I understand the concern over the inland waterways title of the legislation, and I support the Committee's interest in removing it from the bill, but in similar legislation I intend to submit to the Finance Committee, I will keep the inland waterway new construction component and reduce the percentage of cost sharing required from the Inland Waterways Trust Fund. Cost sharing provisions should assure non-federal participation sufficient to fund a reasonable portion of new construction, while protecting the trust fund balance to maintain its viability for outyear construction projects. Requiring 100% of the funding for inland waterway construction to be paid from the trust fund would bankrupt the fund after a very few projects were completed forcing other anticipated projects farther into the future. I would suggest the Committee consider requiring one-third to one-half of new construction to be funded from the trust fund.

- The inland waterway system is facing more than just an infrastructure crisis, but an economic crisis as well. This problem has been exacerbated by federal tax policy encouraging investment in barge equipment and creating overcapacity in the industry. Wealthy investors looking for investment bargains,2uninterested in whether their investment decisions make good transportation sense, have seriously damaged the barge industry. For this reason, I would oppose efforts to impose user charges for the operation and maintenance of federal facilities on the inland waterway system. While I am aware that this Committee has no jurisdiction over this matter, it is an important component of an acceptable piece of legislation.

- The Committee is well aware of the economic conditions of our shallowest ports, those between 14 feet and 20 feet of nominal depth. It would be my recommendation to exempt these ports from the changes in our water resources policy and continue to fund new construction and operations from general revenue receipts. These ports are generally small fishing ports unable to generate sufficient revenue from users to pay for either operations and maintenance or a share of new work. The federal government has pledged itself to keeping these facilities available for the small businessmen and women of our fishing fleets, and often the small communities associated with these fleets are wholly dependent on the port resource. To draw significant sums out of these communities for user charges and cost sharing would be tantamount to the federal government becoming a "reverse Robin Hood" -- robbing the poor to pay the rich

- For ports between 20 and 45 feet of depth, often and erroneously referred to as "general cargo" ports, the Committee's provisions appear to be very reasonable and well considered. I would suggest that the requirement for local ports to pay their share of any new work during the construction phase be changed to reflect the actual ability of ports to generate revenue, and be extended to require payment over twenty years. The lengthening of time would be more reflective of our port industry's ability to remain viable.

- The provisions on new construction for our deep-draft ports also appear to be well considered and sensitive to the difficulties presented by competing ports. I believe you have developed a significant compromise over past bills. The only additional comment I would make is that vessels not requiring a draft of 45-plus feet should not be expected to assist in the construction of a channel in excess of their needs.

- Another element not specifically within the jurisdiction of this Committee that I would like to touch upon is user charges for operation and maintenance of ports with channel depths greater than 20 feet. Members of the Committee know I have suggested in legislation a user charge which would recover 40 percent of the annual Corps of Engineers budget for port O&M. This charge would be nationally uniform and based on an ad valorem charge on cargo. This charge-per-value concept is the most equitable for ALL cargoes both containerized or bulk. While liner companies and higher value shippers may argue differently, on a commercial margin basis, ad valorem is significantly more reasonable.

Many different groups have endorsed the concept and I would strongly urge that this type of fee be enacted by the Congress.

- The Great Lakes must not be ignored in legislation of this type. These ports are an integral part of our nation's waterborne commerce and must be treated equally under the provisions of the legislation. Because of the many special challenges presented by waterway development in the Great Lakes, previous legislation has ignored this special coastal range. I would suggest language similar to that incorporated in my bill, S. 865 of the 98th Congress which addressed the problem in a way that was acceptable to the region and the commcerial interests.

The Administration has expressed its interest in changing the way the federal government develops its navigation resource. They view "shared responsibility" as the new mode of waterways development. Toward this goal, this Committee has shown the leadership that has been needed and I stand ready to assist you in developing reasonable legislation that will meet the Administration's goal without damaging our nation's commerce.

I want to thank the Committee for its willingness to allow me to present my views. I hope they will be helpful as you move towards markup and floor action on this legislation.

TESTIMONY SUBMITTED BY NORTHEAST-MIDWEST SENATE COALITION MEMBERS FROM GREAT LAKES STATES

ON

DEEP-DRAFT NAVIGATION USER CHARGES

TO

THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Alan J. Dixon, Co-Chairman

Rudy Boschwitz

John Glenn

Robert W. Kasten, Jr.

Carl Levin

Richard G. Lugar

William Proxmire

Dan Quayle

Donald W. Riegle, Jr.

Paul Simon

June 13, 1985

As Senators from Great Lakes States, we are pleased to submit this testimony regarding deep-draft navigation user charges.

I. INTRODUCTION

Throughout the 200-year history of the nation's deep-draft water transportation system, the Federal government has been responsible for construction, maintenance and operations of the ports. The Administration has proposed to change this historic precedent and responsibility by implementing user charges to recover 70% of the Federal expenditures for the operation and maintenance of the nation's deep-draft navigation system. According to the Corps of Engineers Fiscal Year 1986 Civil Works Budget Request, the Administration proposes to impose a new tax on users of the deep-draft system to increase revenues by $195.0 million per year.

The purpose of this testimony is to describe the importance of the Great Lakes and St. Lawrence Seaway navigation system to the Great Lakes states and to the nation and to indicate our opposition to the imposition of user charges to recover the costs of operating and maintaining the deep-draft navigation system.

II. GREAT LAKES WATERBORNE COMMERCE

Because of the unique traffic characteristics of the Great Lakes/Seaway System, the imposition of user charges may result in substantial economic costs for the ports, vessel operators, port labor, inland carriers serving the ports and the shippers which take advantage of the low-cost, all water route for shipments between U.S. ports in the Great Lakes, between U.S. and Canadian ports and in international trade to and from overseas markets.

The U.S. Great Lakes ports have experienced a sharp decline in domestic and international vessel traffic and cargo tonnage since the early 1970's. In 1970, U.S. Great Lakes ports handled 216.3 million tons of cargoes, of which 157.1 million tons (72.6%) was domestic traffic between U.S. Great Lakes ports, 45.1 million tons (20.9%) was U.S.-Canadian traffic and 14.1 million tons (6.5%) was international cargo shipped through the Seaway. By 1982, total U.S. Great Lakes traffic had declined by nearly 44% to 121.4 million tons. Of this total, domestic traffic between U.S. ports was 72.1 million tons (59.4%), U.S.-Canadian traffic was 36.4 million tons (30.0%) and overseas traffic was 12.9 million tons (10.6%).

The decline in shipments on the Great Lakes between U.S. ports and between Canadian and U.S. ports is attributed primarily to the downturn in the fortunes of the U.S. steel and automobile industries. Great Lakes shipments of iron ore, coal and limestone - the primary raw materials used in steel production - fell from a total of 172.4 million tons in 1970 to only 92.0 million tons in 1982.

The declining volume of international cargoes handled on the Great Lakes/Seaway System is attributed to the sharp downturn in overseas sailings which began during the 1970's. Factors that have contributed to this reduction in overseas traffic include the limited 8-1/2 month shipping season through the St. Lawrence Seaway at a time when vessel operators are becoming increasingly concerned with full-time use of their vessels; the size of the Seaway locks which restricts the type of vessels that can enter the system, during a period of increasing economies of scale and the worldwide shift to larger, more efficient vessels that can carry more cargo per voyage; the previous Soviet grain embargo; the strong dollar in the international market and the imposition of tolls on the Seaway while note other domestic deep-draft facilities have been charged.

III. IMPACTS OF USER CHARGES

1. Department of Commerce Study

A study entitled Economic Effects of Levying A User Charge on Foreign and Domestic Commerce to Finance Harbor Development, September 1983, was conducted for the U.S. Department of Commerce to determine the economic impacts of user charges that would recover 100% of O & M costs. The study concludes, based on 1979 deep-draft traffic, that a national user charge of 25 cents per ton would cause a decline of 9.5 million tons of cargoes, a loss of more than 10,000 jobs and a reduction in direct sales and incomes of $425 million. For every $1.00 collected in user charges, there would be a net loss to the national economy of $1.26.

The study shows that the Great Lakes would suffer disproportionate economic losses relative to other coastal regions due to imposition of the user charge. While the Great Lakes would contribute $53.2 million (15.8%) of the total national user charge payments, the Great Lakes region would lose 32.8% of the port and shipping jobs, 31.5% of the direct sales and 33.1% of the port generated income. In addition, the Great Lakes port and shipping industry would lose 1,073 jobs.

2. Great Lakes Commission Study

Due to the uncertainty of the impacts of user charges and because the Great Lakes may suffer severe economic disruptions, the Great Lakes states conducted a study of the economic impacts of user charges. The study, entitled The Economic Impacts of Uniform Deep-Draft User Charge on Great Lakes Shipping, September 1983, was prepared by Data Resources, Inc. for the Great Lakes Commission.

The emphasis of the Great Lakes user charge study is on the impacts of deep-draft user charges on 1980 domestic and U.S.-Canadian Great Lakes waterborne shipments. The study concludes that recovery of 100% of O & M costs using a tonnage charge of 26.8 cents would collect $46 million from Great Lakes shippers. In addition, Canadian grain exports could gain a competitive edge over U.S. grain exports from the Midwest as a result of a user charge at U.S. Great Lakes ports.

3. Illinois Department of Transportation (IDOT) Study

IDOT conducted a study entitled Impact of Deep-Draft User Charges on the Six Western Great Lakes States, March 1985, to determine the amount which could have been collected on each state's shipments in 1980 had a nationally uniform user charge of 22.2 cents per ton or an ad valorem charge of $0.000833 per dollar been imposed to recover 100% of O & M costs. The analysis includes all deep-draft shipments having an origination or destination in each state, via both tidewater and Great Lakes ports. The study concludes that user charges would have increased transportation costs by $57.7 million to $65.5 million.

4. Summary of User Charge Studies

The findings of these user charge studies indicate that full cost recovery user charges for O & M could increase the cost of transportation for Great Lakes region cargoes by $46 million to $65.5 million. Recovery of 70% of O & M could have an impact of $32.2 million to $45.9 million. Clearly, the findings of these studies indicate the significant negative impacts of deep-draft user charges on the nation and, particularly, on the Great Lakes economy and maritime industry.

GREAT LAKES STATES POSITION ON DEEP-DRAFT USER CHARGES

Due to the potential disruptive impacts on the economy of the nation and the Great Lakes region from imposition of user charges, with the likelihood that the economy will suffer a loss of $1.26 for every $1.00 collected in user charges, we oppose the imposition of user charges to recover the costs of operating and maintaining the deep-draft navigation system. However, should Congress enact user charges, we believe strongly that such legislation should consider the special needs and concerns of the Great Lakes/Seaway System, without which the role of the System as an international and domestic trade route may further be diminished.

Following is a discussion of special provisions for the Great Lakes/Seaway System we would support if deep-draft user charge legislation is enacted by Congress:

1. Elimination of Seaway Tolls

Since its opening in 1959, the Seaway has been the only domestic deep-draft water transportation facility constructed by the Federal government that is required to be self-supporting from the standpoint of operations and maintenance. From 1959 through 1983, the U.S. had collected $170.8 million in tolls from Seaway users. This amount exceeded by $40.0 million the $133.8 million that the U.S. paid to build the Seaway.

A schedule of typical voyage tolls on commercial vessels, prepared by the Saint Lawrence Seaway Development Corporation, indicates that the 1985 tolls for a one-way transit by an ocean-going bulk vessel with 20,012 tons of general cargo are $55,561, while the tolls for a one-day transit by a bulk vessel with 25,391 tons of grain are $25,405. For the shipment of general cargo, the tolls amount to $2.78 per ton, while the tolls on the grain shipment amount to $1.00 per ton or about 3 cents per bushel.

The U.S. portion of the Seaway is an integral part of the national deep-draft commercial navigation system. As such, steps should be taken to place the Seaway on a more competitive basis with other coasts. This would involve the elimination of tolls at the two U.S. locks on the

Seaway. As an alternative to toll elimination, Seaway users could be charged either the tolls or the user charge, whichever amount would be lower.

2. No Charges on Great Lakes Connecting Channels

The Great Lakes connecting channels include the Straits of Mackinac, St. Marys River, and the Soo Locks which interconnect Lake Superior with Lakes Huron and Michigan and the Detroit River and St. Clair River which connect Lakes Huron and Erie. These connecting channels include international waterways which comprise part of our national deep-draft navigation system.

We support continued 100% federal funding of the costs to operate and maintain the connecting channels of the Great Lakes. Because of the difficulties in user charge collection from vessels transiting these channels but not calling at U.S. ports and the potential for further disruptive economic impacts on Great Lakes shipping, the U.S. steel industry and other industries dependent on receiving raw materials by water, no user charges should be imposed on the Great Lakes connecting channels.

3. National Uniform User Charge

The user charge should be a uniform systemwide fee based upon either weight or value of the commodities or some combination. The amount of any user charges should be established by Congress and not by a Federal agency; however, a Federal agency should administer the collection of the charges.

STATEMENT BY SENATOR STROM THURMOND (R-S.C.) BEFORE THE WATER RESOURCES SUBCOMMITTEE OF THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, REFERENCE TITLE IX OF S. 366, THE WATER RESOURCES DEVELOPMENT ACT OF 1985. MAY 16, 1985.

MR. CHAIRMAN:

I appreciate having the opportunity to offer comments on S.366, the Water Resources Development Act of 1985, and commend you, Mr. Chairman, for your willingness to hold these hearings. Major policy changes, such as those called for in this legislation, deserve the fullest and fairest consideration and review possible.

Mr. Chairman, I will limit my remarks today to what I perceive to be a few of the most important, and most perplexing issues presented in Title IX of the bill. These are, in my view, the creation of a commission to study user-fees, and the establishment of port specific user fees.

I must continue to oppose the approach to user-fees taken by this bill. The creation of a commission to study user-fees does nothing more than side-step a very difficult policy question, which is most appropriate for resolution by this, the representative, legislative branch of the government. Under this bill, the unpleasant task of structuring the form, and amounts charged pursuant to the user-fee system would be diverted from Congress to another newly created and unnecessary commission.

It is my firm belief that we in the Senate should make this decision. During the past several years, this Committee and interested Senators have developed data and materials; conducted hearings, surveys, and studies; and dedicated many hundreds of man-hours to the precise question, which, under S.366, would be shuttled off to a new commission for study and recommendations. This is wasteful, in my opinion, of both time and money. This Committee should reject the idea of this commission and set about its proper policy-recommending function as a Committee of the U. S. Senate.

The user-fee dispute has raged long enough. The information presently available is more than sufficient to permit the necessary decisions to be made in Congress. I think this Committee and the Congress should fulfill their responsibilities.

I am also deeply concerned about the possibility of port-specific user fees. While I realize that this element of the bill does not specifically fall within the jurisdiction of this Committee, I would like to mention these user fees with respect to charges for operation and maintenance of ports with channel depths greater than 20 feet. As you may remember, last year I cosponsored legislation which would recover 40 percent of the annual Corps of Engineers budget for port operations and maintenance. This charge would be nationally uniform and based on an advalorem charge on cargo,the assessment method which is the most equitable for all types and weights of cargoes.

I remain strongly opposed to a port-by-port fee system. Such a scheme would create distinct economic disadvantages for medium and smaller-sized ports and would be financially ruinous for them. For example, the port specific fee proposal would result in cargoes shipped from New York Harbor being taxed at a rate of one-tenth of a cent per ton, while Savannah, Georgia cargo would bear a tax of 6.8 cents per ton. Charleston, South Carolina would have to assess at 6.8 cents per ton, and yet Miami would charge only eight-tenths of a cent per ton. This would force many shippers to seek out the least expensive port, and would cause the economic decline of most of our southeastern facilities. Clearly, the port-specific user fee concept is a prime example of a program to help the big ports get bigger, while the smaller ports would stagnate, decline, and die.

In my opinion, a far preferable alternative would be a nationally uniform users fee based on the value of the cargo (as opposed to weight of the goods). This concept is the most equitable for all cargoes, both containerized and bulk. Clearly, it would be unreasonable to asses a ton of grain the same fee as a small automobile, a cargo item of comparable weight but much greater value. An advalorem charge awards these inequities.

The uniform fee is important because it puts all ports on an equal footing insofar as these new user charges are around. It would not jeopardize the National Security of this country by forcing the closure of most medium and small ports. As I have emphasized, under a port-specific fee scheme, these ports would have to charge shippers more, forcing users to seek larger ports with lower fees. A uniform fee system would not result in the massive economic dislocations which port-specific user charges would cause. The latter would alter the entire equation for industrial development and re-location, and states areas with smaller volume ports would be the losers. Additionally, a nationally uniform users fee would be less complicated, less confusing for shippers, and easier to administer.

Mr. Chairman, I sincerely hope the Committee will recognize that it is in our national interest to have a strong, viable system of ports and harbors. A uniform advalorem users fee is the best means of ensuing that our Nation will continue to enjoy the security and economic benefits of its present fine port system.

Thank you, Mr. Chairman, for allowing me to express my views at this hearing today.

Senator Paul S. Trible, Jr.

S. 366, The Water Resources Development Act of 1985

Committee on Environment and Public Works

May 16, 1985

Mr. Chairman:

Thank you for the opportunity to appear before your Committee today to discuss S. 366, the Water Resources Development Act of 1985, which I have cosponsored.

During the eight years I have represented the Commonwealth in Congress I have testified many times on various flood control and navigation projects of critical importance to Virginia cities and localities. It is regrettable that no major public works bill has been enacted since 1976. I know that this Committee is aware of the such legislation. States and localities must be allowed to proceed with the water resources improvement projects essential to the economic well-being of the nation.

Authorization of the numerous projects in the bill is long overdue. The Port of Hampton Roads dredging project, in particular, is of great economic importance to both the Commonwealth and the nation as a whole.

The failure to devise a system for financing port development has resulted in the United States falling seriously behind our trading allies in providing the type of bulk, deep draft facilities so necessary to international trade. Improved bulk facilities mean lower transportation costs, a more competitive posture for U.S. exports, a more favorable balance of trade and U.S. jobs. If we had embarked on an aggressive national port development program five years ago, we would have a much brighter trade picture today.

An equally important reason for the deepening and improving of our nation's ports is their vital role in our commitment to a modern Navy. The timely deployment of ships and troops and the maintenance of adequate logistical support can only be assured by modern, well-maintained harbors.

I believe that the language contained in S. 366 will permit states, ports and localities the needed flexibility to devise means of funding dredging projects. It's an equitable proposal and it has my support.

In fact, I consider the dredging issue so important that I will assist any Committee effort to approve Title XI provisions. I understand the Committee may be contemplating separating Title IX from S. 366 and moving it to the floor as an independent bill, and will support this initiative.

In addition to the Hampton Roads project, the Water Resources Development Act of 1985 includes authorization for Richmond's $94 million James River Basin flood control project, the $2 million Willoughby Spit shoreline protection project and the $2 million Hampton Roads debris removal project. I know that Senator Warner has testified in depth on these projects, as well as four others of great importance to Virginia Beach. I would like to associate myself with his comments on these projects, and will not go into additional detail at this time.

However, I would like to talk for a minute about another project contained in S. 366, the $5.4 million Tangier Island seawall project.

It is one of great personal importance. I have worked on it since my days as a freshman Congressman from the first district of Virginia.

Tangier Island is, quite simply, sinking. What is at stake here is the preservation of a distinct way of life. Approximately 900 people inhabit the Island's 7 square miles. The residents of Tangier are descendants of the original settlers who arrived in 1686. Like their ancestors, today's Islanders rely on the Chesapeake Bay and its rich fish and shellfish resources for their livelihoods.

These watermen are fiercely independent and resourceful. They prefer to solve their own problems and are reluctant to seek outside help. They live a life unencumbered by modern technology and many still speak with more than a trace of the Elizabethan accent of their forebears. There are few places in America where the traditions of an earlier era are so well preserved.

However, the continuing erosion of the western shore threatens the very existence of Tangier Island and its people. Erosion is progressing at such a rapid rate -- about 25-30 feet per year -- that within the coming decade, the airport (a critical link to the outside would) will become inoperable and a major portion of the island will be lost. In fact, the severe winter of 1983 badly damaged the end of the runway at the southern end of the Island, and remedial emergency measures have not been entirely successful.

The assimilation of these inhabitants into other communities would be an irretrievable and immeasurable cultural loss to our nation.

The erosion problem has been investigated on two occasions in the late 1970's by Task Forces composed of representatives from the Army Corps of Engineers, Virginia Institute of Marine Science, Virginia Division of Aeronautics, Virginia Water Control Board, Virginia Department of Highways, Virginia Department of House and Community Development, Virginia Marine Resources Commission, Department of Intergovernmental Affairs, and the Town of Tangier. After looking into an array of alternative solutions, both Task forces recommended construction of a seawall on Tangier's western shoreline. The task force study estimated the cost of the seawall at $3.5 million.

Questions are frequently raised regarding the Corps' of Engineers position on the Tangier Seawall project, since its cost/benefit ratio is not such that the Corps would ordinarily recommend construction of the project. I would like to submit as a part of today's record the following two letters; one January 12, 1978, and the other June 28, 1978, which outline in detail the Corp's support of the Tangier Island project.

Thank you , Mr. Chairman, again for this opportunity to testify before the committee today in support of not only these important Virginia projects, but also in recognition of the need for a new and different Federal role in water project financing. I hope that the Committee and other cosponsors of this legislation can join together in urging the Senate leadership to move quickly to get S. 366 on the floor for full Senate approval.

DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510

IN REPLY REFER TO
NAOEN-RI

29 June 1978

Mr. Gus Edwards
Administrative Assistant
to Honorable Paul S. Trible, Jr.
House of Representatives
512 Cannon Building
Washington, D.C. 20515

Dear Mr. Edwards:

In further reply to your 27 and 28 June 1978 telephone conversations with Messrs. Barnes and Melchor concerning erosion at Tangier Island, my staff has been working closely with the State, other Federal agencies, and local interests in trying to solve this serious problem. A joint task force of Federal, State, and local representatives concluded in its 1976 report that the best solution to the severe erosion problem along Tangier's western shoreline would be a detached riprap breakwater or seawall. The area shoreward of the detached seawall would be used as a long-term disposal area for the dredged material from the Federal navigation channels at Tangier. When filled, this area would be replanted as salt marsh. This approach would correct the erosion problem, would meet the ever-present need for disposal areas, and would reclaim valuable salt marsh which has been lost to erosion through the years. The task force was formed at the request of Governor Godwin and was under the direction of Mr. Joseph B. Wilson, Jr., Director, Virginia Soil and Water Conservation Commission (804-786-2064). If you do not already have a copy of the task force report, it is possible he could supply one. We do not have a copy available.

Tangier Island, which has been inhabited since colonial times, is historically important and culturally unique. Its economy is primarily water related. Because of centuries of isolation, many colonial ways, including the hint of an Elizabethan dialect, remain. If erosion, which is progressing at the rate of over 25 feet per year, is allowed to continue, the island will probably have to be evacuated. The assimilation of its inhabitants into other communities would be an irretrievable cultural loss to the people of the United States.

Unfortunately, protection of Tangier's shoreline would not prove economically feasible under a normal Corps of Engineers civil works investigation and could not be recommended as a Federal project.

To be justified under the normal civil works program, the shoreline would have to be heavily developed and/or support extensive recreational use, such as Virginia Beach. This is clearly not the case at Tangier. Consequently, funding for a project to save Tangier would have to come from special Congressional legislation or from State, local, or private sources. Should funding become available for this badly needed work, the Corps of Engineers has the expertise to plan, design, and construct the project. We also stand ready to help in any way possible to the limit of our authority under our technical and engineering assistance program.

Inclosed for your reference is the copy of our Virginia Beach report which Mr. Barnes offered to send to you. This may be helpful to you in understanding why the Tangier shoreline would not be justified under the regular civil works program. When you have finished with the report, please return it to me as the supply is quite limited.

If I can be of any further assistance in this matter, please contact me.

Sincerely yours,

Douglas L. Haller

DOUGLAS L. HALLER
Colonel, Corps of Engineers
District Engineer

Incl
As stated

DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510

IN REPLY REFER TO

NAOEN-RI

12 January 1979

Honorable Paul S. Trible, Jr.
House of Representatives
Washington, D.C. 20515

Dear Mr. Trible:

On Friday, 5 January 1979, I met with Governor Dalton in his office to discuss the shoreline erosion situation on Tangier Island. The following people also participated in the meeting:

Honorable Edward Willey, President Pro Tempore, Virginia Senate
Honorable Maurice Rowe, Secretary of Commerce and Resources
Honorable George Walters, Secretary of Transportation
Ms. Joy Manson, Executive Assistant to Governor Dalton
Mr. William Breen, Assistant Secretary of Commerce and Resources
Mr. Paul Royer, Assistant Secretary of Transportation
Mr. Jim Melchor, Oceanographer, Corps of Engineers

Apparently, there is some confusion concerning the Corps position on protecting Tangier's shoreline. Norfolk District firmly believes that this eroding shoreline should be stabilized to preserve the culturally unique and historically important community of Tangier. Also, Norfolk District indorses the recommendations of the Governor's Task Force on Shoreline Erosion at Tangier Island. These recommendations will be presented to you by the State.

Protection of Tangier's shoreline would not be economically justified under a normal Corps of Engineers civil works investigation, and for this reason alone, it could not be recommended by the Corps as a Federal project. To be economically justified under a normal civil works program, the shoreline would have to be heavily developed and/or support extensive recreational use, such as Virginia Beach. This is clearly not the case at Tangier. Nevertheless, we believe the shoreline should be protected because of the island's historical and cultural importance regardless of the economic justification. Funding for a project to save Tangier could come from special Congressional legislation or from State, local, or private sources or a combination thereof. Should funding become available for this badly needed work, the Corps of Engineers has the expertise to plan, design, and construct the project. Shoreline erosion at Tangier is critical now, and remedial action should be undertaken as soon as possible.

I hope this letter clarifies Norfolk District's positive position that Tangier's shoreline should be protected against further erosion. If I can be of any further assistance, please contact me.

Sincerely yours,

Douglas L Haller

DOUGLAS L. HALLER
Colonel, Corps of Engineers
District Engineer

STATEMENT OF THE
MARYLAND DEPARTMENT OF TRANSPORTATION
MARYLAND PORT ADMINISTRATION
S.366

On behalf of the Maryland Department of Transportation (MDOT) and the Maryland Port Administration (MPA), we thank you for this opportunity to testify on S.366, a bill to authorize the Army Corps of Engineers to construct various projects and for other river and harbor improvements.

It is appropriate that the first Senate hearing of this new Congress on legislation, which would break the deadlock on vitally needed dredging projects, takes place before this Committee. You, Mr. Chairman, Senator Moynihan, and our own two Senators -- Charles McMathias and Paul Sarbanes have been at the forefront of the battle to start and complete these desperately needed projects. This Committee fashioned the important legislation last session, S.1739. It is unfortunate that the Congressional adjournment prevented final passage of this measure, and that certain forces within the Administration refused then, as they do now, to offer and support a fair compromise to this serious national problem.

Our Senators have ably represented our views on the importance of obtaining federal funding to dredge access channels into the Port of Baltimore to their authorized 50' depth. Our project's authorization is nearly 15 years old and it is difficult to express the frustration, disappointment and desire to move ahead with our dredging. We thank the sponsors of S.366 for including previously authorized projects under its scope, by its 25-75 cost sharing formula for Baltimore.

In short, the term S.366 is well-suited to the cost sharing criteria set out by our Governor and the leaders of our General Assembly. We applaud this approach and urge favorable action by this Committee.

I would like to take a moment and outline to the Committee the actions of our State government which make Maryland, in my opinion, the best prepared State in the nation to initiate its dredging project. As I mentioned before, our State has already constructed at a cost of $55 million a dredge disposal site which awaits fill from the 50' project. When the cost-sharing controversy for these projects began, Maryland laid down several general criteria for participation in such cost-sharing --- at least 50-50 share, credit for dredge disposal sites, and optional local user fees --- which were met by last session by S.1739 and the bill you consider today. We did not stop there, and idly await for federal action on this project. In conjunction with the Corps of Engineers and Maritime Administration, we are reviewing project costs and scope to assure maximum safety, efficiency and economy.

The MDOT had prepared, at its own expense, an extensive study entitled "Port of Baltimore Channel Deepening Feasibility Status and Financial Issues", known as the Revis Report, which gives the "bottom line" for Maryland's cost-sharing participation in the $330 million ($1984) project. We have included a copy of this report with our testimony, and request that it be made part of the record. This study tells us that when comparing the State's financial cost against benefits which will accrue to Marylanders , a 50-50 cost sharing of remaining project costs, plus federal credit for the State's cost previously incurred at Hart-Miller Island, or, alternatively, at least a 75% federal share of remaining costs without credit for previously incurred costs at Hart-Miller Island,represents a wise investment of State funds. On the other hand, were the State to invest more than 50% of a $330 million project, without credit for Hart-Miller Island costs, our investment could prove to be marginally profitable at best.

In short, the cost-sharing formula in S.366 meets the test of Maryland's cost-benefit analysis of our project.

Mr. Chairman, we have even gone the next step and have identified how Maryland would raise its share of project costs, in the event that Federal funds were made available at an early date. In the attached letter from our Governor to General Assembly leaders, we have specified a fiscal plan which includes use of existing State revenue, issuance of bonds, and a possible sale of the World Trade Center in Baltimore. This seriousness of purpose demonstrates a very real committment to our initiating this project as soon as possible. The environmental, design, and bidding procedures are all in place for us to begin the 50' channel work. What is needed is action by the Congress and Administration to delineate the cost share and provide funds for FY 1986.

We appear today in strong support of S.366 but at the same time recognize that a spirit of cooperation and compromise must prevail. Unfortunately the draft Administration bill displays little of this spirit --- particularly in its treatment of ports with projects deeper than 45', requiring them to pay 100% of the project cost. These ports are unfairly burdened and the irony is that they are the most important projects to be done. While we endorse a spirit of compromise, we urge this Committee and this House to hold firm to its committments to the ports of our nation that so desperately require new channels to improve their facilities and America's balance of trade. We share that hope and pledge our cooperation to reach this goal during this Congress.

Thank you very much and I will be glad to answer any questions.

PORT OF BALTIMORE CHANNEL DEEPENING FEASIBILITY, STATUS AND FINANCIAL ISSUES

Presentation to Fiscal Review Committee
December 4, 1984

Maryland Department of Transportation

[The following has been excerpted from the above named report. The report, in its entirety, has been retained in committee files.]

PORT OF BALITMORE CHANNEL DEEPENING
FEASIBILITY, STATUS AND FINANCIAL ISSUES

Presentation to Fiscal Review Committee
December 4, 1984

EXECUTIVE SUMMARY

Baltimore's Channels and the 50 foot Project

- The Port of Baltimore has two access routes to the ocean, one through the Virginia Capes at the entrance to the Chesapeake Bay (presently 42 feet deep) and the other from the north thru the Chesapeake and Delaware (C&D) Canal (generally 35 feet deep).
- The 50 foot channel project as planned (final design is nearly complete) involves the deepening of the southern approaches to the Harbor to 50 feet. There are no plans to deepen or otherwise improve the northern access route to the port.

Port of Baltimore's Trade

- Port of Baltimore Trade is composed of three types:

  General Cargo (21% of foreign tonnage, 89% of dollar value)

  Liquid Bulk (7% of foreign tonnage)

  Dry Bulk (72% of foreign tonnage) - coal and grain exports and iron imports represent about 86% of dry bulk foreign trade.

- General cargo has the largest economic benefits to the State (50% of port related jobs in 1980, excluding automobiles).
- The 3 major dry bulk commodities (coal, grain, and iron ore) would be the prime beneficiaries of the 50 foot project.
- The overall future outlook for coal exports is uncertain. Our analysis assumed that they will increase about 5% annually until the year 2000 and less than 1% annually after that. To reflect uncertainties, a "worst case" scenario assumed 30% lower traffic.
- Grain exports were assumed to increase at an annual average rate of about 1%.
- A stable constant average annual demand of 6.2 million tons of iron ore imports were also assumed (below pre-recession experience but higher than most recent recession-impacted volumes).

Why is Channel Deepening Needed?

- Baltimore's approach channels need to be deepened because of larger vessels being used in the dry bulk trade, which when fully loaded, require deeper water.

Investment Appraisal of 50 Foot Project

- The analysis was based on the quantification of the economic return (benefits) to the State (rather than just financial return) compared to the costs to the State. Assumptions made were generally conservative. Only direct employment benefits were quantified. No user fees were assumed since such fees would divert traffic to other ports and substantially reduce the economic benefits of the project.
- Since there are great uncertainties which involve substantial risks, the project was considered to be feasible if the benefits could not only cover the State's investment, but also produce additional economic benefits to the State. A range of 8 3/8 to 10% discount rate for future benefits was used — comparable to the opportunity cost of capital.
- Latest project cost estimates are about $330 million in 1984 dollars. This estimate is based on about a 4 year (most optimistic) construction period, assuming availability of funding.
- It is estimated that if the channel is deepened, bulk traffic will on average be about 4 million tons larger per year over the economic life of the project than if the channel were not deepened. This incremental traffic will on average result in about 1,650 jobs — jobs that would be lost if the traffic increment would not come through Baltimore.

Results of Economic Feasibility Analysis

- If the Federal government contributes 75% of the project cost, the project will provide an excellent return on the State's investment, even under the most adverse assumptions tested.
- From the State's perspective, the project is still a sound investment of State funds if the Federal government contributes at least 50% of the project costs and credits the State for its investment in the Hart-Miller disposal site.
- If the Federal government contributes only 50% of the project cost, and does not reimburse the State for the Hart-Miller investment, the project approaches a marginal return on the State's investment under the most pessimistic assumptions. The most serious risks involved are:
    - delay in private sector investment by dredging access channels to their facilities, thereby delaying project benefits (estimated to require about $13 million of private investment).
    - unexpected large cost increases, in excess of contingencies in cost estimates and inflation, and
    - cargo traffic substantially lower than forecasted.

Funding Scenarios

- No federal construction funds have been appropriated. The Reagan Administration has indicated that a cost-sharing arrangement must be enacted before federal funds will be available. With the emphasis on reducing the federal budget, it is difficult to predict when a federal bill will be enacted.
- Maryland's share of the project can be anticipated to range between $90 and $130 million in 1984 dollars, assuming passage of one of the bills approved by Congressional Committees this year. The actual State share will increase due to inflation.
- Cost saving measures need to be carefully considered to find ways to reduce the estimated construction cost. The Department will be pursuing a simulation of the channel design with the Corps of Engineers and the U.S. Maritime Administration — a process that has proved successful in reducing costs for other projects. Cost reduction measures should improve the potential return on the State's investment.
- The project is dependent on the availability of federal aid. There are a variety of ways in which the State could raise the matching funds needed for this project. An analysis of the advantages and disadvantages of funding sources, and recommendations as to which might be appropriate will be the subject of a future report to the Fiscal Review Committee. (In part due to the uncertainty regarding Federal funding, and the consequent divergent estimates of the State's share of the cost of the project, it is difficult to assess the appropriateness of specific funding sources at this time.)
- It seems very unlikely that a Baltimore-only user fee could be set at a level sufficient to recover most of the costs. Therefore, if a user-fee is used, it would have to be used in conjunction with some other revenue source.

C&D Canal Approaches

- Another issue identified during the study of the 50 foot channel project is the need to study channel improvements to the C&D Canal and the other channels that make up the northern route to Baltimore Harbor. This route is particularly important to preserve Baltimore's competitive position in the container trade.
- The Department will be undertaking a study to better define the scope of the problem and identify solutions. The environmental issues involved in any alternative considered will be carefully evaluated. Additional funding needs will likely be identified through this study.

CONCLUSIONS

1. From the State perspective, the proposed 50 foot channel project for the southern approaches to the Port of Baltimore is a sound investment that will provide an excellent return to the State if the federal government contributes 75% of the cost.

2. The project remains a sound State investment if the Federal share is 50% and the State gets credit for its $50 million expenditure for the Hart-Miller disposal site.

3. If the Federal government contributes 50% of the cost but does not give the State credit for its Hart-Miller investment, the 50 foot channel project becomes marginally acceptable under "Worst Case" assumptions (15% increase in costs , 30% decrease in projected benefits and a 3 year delay in private channel deepening). Under such a scenario, and with such a federal aid assumption, the risk that the benefits to the State will not even add up to the State's investment is more substantial.

4. Cost saving measures need to be carefully considered to find ways to reduce the estimated construction cost. The Department will be pursuing a simulation of the channel design with the Corps of Engineers and the U.S. Maritime Administration — a process that has proved successful in reducing costs for other projects. Cost reduction measures should improve the potential return on the State's investment.

5. The State should continue working through its Congressional Delegation to obtain federal funds for the project as soon as possible. State funding requirements for the 50 foot channel project can be anticipated to be in the range of $90 to $130 million in 1984 dollars, assuming passage of one of the bills approved by Committees in the House and Senate this year. The actual State share is also subject to change based on cost-saving measures and increases due to inflation, depending on timing of implementation.

6. It is unlikely that user fees could be set at a level sufficient to recover the State costs. If user fees are used, they would have to be used in conjunction with some other revenue source.

7. A determination of the most appropriate funding source to cover the State's share of the project's cost depends, in part, upon the extent of the State's responsibility, and the time period over which the State's cost will be incurred. These, in turn, depend upon resolution of Federal cost sharing issues. The Department of Transportation will continue to assess funding options, and will be prepared to report back to the Fiscal Review Committee on this subject.

8. There are substantial issues concerning deepening and widening of the northern approaches to the Port (including the C&D Canal) which require immediate detailed study. This northern approach to the Port is important to preserve Baltimore's competitive position in the container trade. Options considered must be sensitive to any environmental issues involved. Additional funding needs will likely be identified through this study.

Statement of the American Association of Port Authorities
To The Subcommittee on Water Resources, U.S. Senate
The Honorable James Abdnor, Chairman
Regarding Senate Bill 366

The American Association of Port Authorities, founded in 1912, today represents virtually all the public seaport authorities in the United States.

We appreciate the opportunity to present this statement for the Subcommittee's consideration. We also acknowledge with gratitude the Subcommittee's abiding interest in the port and navigation system and the leadership of its members in advancing meaningful legislative proposals which respond to the unusual national needs for a system of deepdraft navigation channels and harbors.

The issues of navigation development are extremely important to U.S. ports and to those persons and entities who rely on our port facilities to provide the best possible interface services for the nation's maritime transportation operations. In the last decade, the U.S. port industry has faced the growing challenge of dealing with the uncertainty of the federal government's future role in developing and maintaining the federal navigation system. Discussions of many years have brought public port administrators to a realization that development of the nation's deepdraft navigation system with acceptable levels of maintenance is absolutely critical to the processes of port planning and development required to accommodate well-defined and very valid national needs.

The importance of this reality has not, however, been reflected in positive action. Because so much is at stake, the issues involved in navigation development legislation have defied quick solution. In recent years, many bills have been introduced in an effort to deal with this issue. However, we now have reason to believe that this Congress offers hope for resolution of the impasse in port development legislation. Congress seems to be coalescing behind a few major legislative initiatives. The Executive Branch has now put forward concrete proposals for consideration. Indeed, our competitive port industry, which has been divided on many key points of how navigation development and maintenance programs should be formulated, is now coming together with a unified approach to all but the most controversial provisions. It is no coincidence that these controversial provisions address the very heart and soul of the traditional partnership between the federal government and state and local port entities.

The need for an enlightened program of federal channel development projects is well-documented. Action is required now.

Dredging issues relate to a very important national problem that is remarkable for its complexity. These issues engage a full spectrum of economic considerations, ranging from the perceived responsibilities of users to pay for federal services to the economic survival of a number of U.S. port communities.

In terms of landside cargo handling capabilities, it can be said that the U.S. port system today is the equal of any other nation's. The critical problem is that federal navigation channel and harbor development has simply not kept pace with the tremendous landside facility development carried out by the nation's public port authorities and private entities. While ships have been getting bigger and trade volumes expanding, the federal government has done very little to foster development of the federal deepdraft navigation system in the last 20 years. Congress has not authorized a single deepdraft navigation project of any size or dimension since 1976. More than 30 such projects now await Congressional approval. In fiscal 1985, the extent of the Corps of Engineers' development and maintenance dredging projects equated to less than 40 percent of such projects carried out in 1963.

Port development in the United States also is impeded by burdensome procedural and regulatory requirements. It now normally takes 20 to 25 years to develop an authorized navigation project from conception to completion. Permits for landside cargo-handling facilities often require several years. The bureaucracy under which U.S. port development must take place is distended, onerous and, by any measurement, counterproductive. From the perspective of those responsible for port development, federal procedures seem actually to mandate delays. Every port in the U.S. has been adversely affected by what is benignly called the federal "system" for authorizations and permits.

Clearly, this record conflicts with the level of activities which generate the need for navigation development. The United States is as dependent as ever on the movement of international trade. Present international trade volumes are expected to nearly double by the end of the century. Some 95 percent of U.S. international trade volumes move via ocean carriage and thus are dependent upon the port and navigation systems. Technologic advances toward larger, more automated ships have thrust dramatic changes upon all components of the international maritime shipping industry, particularly upon port facilities where flow-of-commerce demands for modern and efficient cargo handling capabilities are ever increasing.

U.S. Department of Defense spokesmen have confirmed on many occasions in recent years that critical U.S. national defense and mobilization strategies depend upon ocean carrier movements, and thus upon the U.S. system of ports and deepdraft navigation channels. Twenty-four ports along the four coasts have been designated "National Defense Ports," but Department of Defense spokesmen have made it clear that ultimately they will be relying on all ports to support emergency operations. Indeed, the mechanism to take over the ports under certain emergency conditions is in place. The nation's defense must be a carefully considered factor in policymaking and planning for the port and navigation systems, both in terms of the capabilities of those systems and in the assurance of sufficient redundancy.

"The Partnership"

Traditionally, the U.S. port system has been developed on the basis of a partnership between local and state port authorities and the federal government. Landside cargo handling facilities and associated infrastructure including prescribed components of federal navigation projects, are provided by local, state and private interests. Navigational capabilities have been the responsibiiity of the federal government.

For their part, the local, state and private interests have responded to the dynamics of change in a most dramatic manner. In its 1984 report on the status of U.S. public ports, the U.S. Maritime Administration states that local, state and private entities invested some $5 billion in terminal facilities in the period 1946-1980 and are likely to invest $5 billion more in this decade. All of this money has been and is being invested in a good-faith reliance upon the federal government to fulfill its traditional responsibility in providing appropriate development and adequate maintenance of our nation's deepdraft navigation system. The U.S. Maritime Administration has determined that the cash value of landside facilities at U.S. ports was $59.6 billion in 1983 with a replacement value of $78.3 billion. It is essential that any Congressional action to change traditional funding formulae for navigation projects recognize and respect the record of investment in port facilities by non-federal entities, which have relied on the constancy of the federal role in operating and maintaining the nation's deepdraft navigation channels.

The navigation system belongs to the federal government. Its development through the years has been premised on the reality that the nation as a whole has a well-defined interest in both the flow of international commerce and in maintaining adequate national defense capabilities. Present conditions and identified trends reinforce this premise; the United States is vitally dependent on its system of seaports and deepdraft navigation channels.

Total federal investments in the deepdraft navigation channels from 1824 through fiscal year 1979 were approximately $4.4 billion. This compares to the 1946-1980 investments of the port industry which are estimated at $5 billion. Clearly, the federal government's investment in deepdraft navigation channels has supported a far greater level of port development and operations which generate a wide range of positive economic benefits.

In addition to providing essential transportation services to international trade flows and serving national defense strategies, the U.S. seaport and navigation systems produce significant direct benefits to the federal government. The U.S. Maritime Administration has concluded that activities at U.S. ports provide direct employment for more than one million persons, ranking the U.S. port system as a major national industry. For the past three years, the federal treasury has realized more than $6 billion annually in Customs receipts collected at U.S. seaports, or more than ten times the amount the federal government presently is spending on the deepdraft navigation projects. In fiscal 1984, government receipts from that source were an estimated $8.3 billion.

A port is a combination of landside facilities and navigation capabilities. Thus, the U.S. port system is only as good as the federal deepdraft navigation system. The paramount importance of maintaining a navigation capability consistent with the nation's international trade and national defense needs has not been adequately reflected in Congressional action. Evidence of the shortcoming is mounting. The port facilities that the United States will require by the turn of the century are not yet in place. In its National Port Assessment 1980-1990, the Maritime Administration estimates a requirement for 247 additional seaport berthing facilities, representing a basic capital investment of at least $5 billion through the end of this decade. Under the traditional system of port development, the initiative to accommodate these well-documented needs will come not from the federal government, but from local, state and private entities. The ability of these non-federal interests to plan and to provide for the necessary port development is seriously inhibited by the federal government's lack of support for the deepdraft navigation system. This is a problem which must not be misunderstood or underestimated if the nation's needs for port development are to be accommodated.

A Program of Deepdraft Navigation Development

The U.S. port industry holds that in the national interest, it is imperative that the federal government commit to a program to assure the appropriate levels of operation and maintenance and the orderly development of U.S. deepdraft navigation channels.

Legislation relating to harbor and channel development must not simply redefine procedures and formulae by which projects are authorized and financed. Such legislation must also assure a well-defined program of updated maintenance schedules and development work on deepdraft navigation channels. And such legislation should set forth a new mandate of procedural efficiency to ensure that this essential work is carried out in the most timely and economic manner possible.

On November 28, 1984, the U.S. Legislative Policy Council of AAPA adopted a four-point position summary that sets forth the U.S. port industry's basic positions concerning the development and maintenance of the nation's harbors and navigation channels.

1. PROCEDURAL REFORMS TO EXPEDITE CHANNEL PROJECTS DEVELOPMENT

AAPA supports the limited procedural reforms proposed in S. 366. More comprehensive changes are indicated, however. Indeed, the U.S. port industry views "fast-tracking" reforms in the procedural systems by which channel and harbor projects are authorized and developed as a critical legislative objective. Meaningful changes which would substantially reduce typical project development cycles are essential if national needs for port and navigation system capabilities are to be accommodated in an orderly and responsible manner.

(AAPA staff has completed a research project which documents the realities of the inherent delays in the current system for authorizing and constructing new projects. We have attached this report to our statement for the record. The Association's technical committees also are conducting additional analysis and research to provide a basis for industry recommendations for specific changes and reforms. This work will, of course, be presented to appropriate congressional offices.)

2. OPERATIONS & MAINTENANCE COSTS

The U.S. port industry recognizes the critical nature of growing federal budget deficits; indeed, U.S. ports are adversely impacted in numerous ways by the insidious effects of mounting federal debt. The port industry believes, however, that the operation and maintenance of the present federal deepdraft navigation system must be considered a distinct federal responsibility. Any shift of such costs to navigation system users, carriers or port authorities would surely create a series of negative impacts on the flow of commerce, on the competitive position of U.S. products in international markets, and on the ability of many port authorities to sustain economically beneficial operations. The ultimate result of such cost recovery may well prove to be counterproductive to the national interest. Thus, such initiatives toward cost recovery must be considered with great care and sensitivity, lest short-sighted cost-recovery goals compound U.S. international trade problems.

3. COST-SHARING--NEW WORK

U.S. port authorities, acting as local assurers for federal navigation projects, now contribute substantial shares of total project costs. The port industry believes that this current system of cost-sharing must be well-recognized and respected in any initiative to legislate new cost-sharing formulas. The industry notes with gratitude that this is indeed recognized in the cost-sharing formulae of S. 366. Any additional cost sharing for projects of all depths must appropriately reflect the vital national interest in the adequacy of the deepdraft navigation system and the utility of the navigation system to federal government operations.

4. ALLOCATION OF CUSTOMS RECEIPTS

The federal government collects more than $8 billion annually at U.S. ports in the form of customs fees on cargos moving via the federal deepdraft navigation system; thus, the navigation system must be considered an essential utility to customs collection procedures. The U.S. port industry believes that it would be economically appropriate to have a small percentage of these revenues directly allocated to fund the federal government's share of costs associated with the development and operations and maintenance of the deepdraft navigation system.

In summary, the U.S. port industry calls on Congress to declare an extended program of harbor and channel development and maintenance with the objective of modernizing the deepdraft navigation system to an acceptable status by the year

2000. The schedule of projects to be authorized in S. 366 is consistent with this objective.

Clearly, the United States is faced with the challenge of reversing the effects of inaction during the last 20 years; to catch up so as to equip the nation with the deepdraft navigation system so essential to its economic well-being and national security. Even with new levels of cost-sharing, such a program will require federal expenditures far in excess of monies spent in recent years when these needs were not addressed. The U.S. port industry urges Congress to respond to the general need for navigation development with appropriate commitments. The Congress can be assured that the local and state port agencies of this country will continue to provide the initiative, the expertise and, yes, the considerable capital investment to ensure development of landside port facilities necessary to accommodate the demands of this nation's waterborne commerce.

Cumulative Impacts of Shifting Cost Burdens

Since the beginning of its first term, President Reagan's Administration has indicated its intention to have enacted a number of transportation-related cost recovery user fees. These include: charges to recover federal expenditures associated with the nation's navigation system, shallowdraft and deepdraft; user charges to recover certain expenses related to Coast Guard services to commercial vessels and cargo handling facilities; and user fees to recover a portion of costs for Customs' services. Such cost-recovery schemes have again been proposed this year. These initiatives reflect the premise that costs of providing federal services should be borne by the users of such services.

The U.S. port industry is deeply concerned over the cumulative impacts that such fees, if enacted, might have on U.S. international trade, particularly price-sensitive exports.

AAPA has in the past and will continue to urge the Reagan Administration and Congress to keep in mind that each user fee that is imposed has implications that extend far beyond the federal government's immediate economic objectives. The flow of the nation's commerce has been established on the basis of a constant federal role in providing certain transportation services. The imposition of user fees will alter present patterns of trade and the competitiveness of many U.S. exports as well as the price of imports. The impacts of any specific user fee and the cumulative impacts of all proposed user fees must be identified and measured before imposition. To do less would increase the risk of achieving immediate cost-recovery goals at the expense of exacerbating U.S. trade deficits, compounding the economic plight of American farmers and other key export interests, and undermining port facility investments underwritten by constituents of local and state port authorities.

There are, in addition, provisions contained in certain tax reform proposals that could, if enacted together with the Administration's water resource development legislation, impede port revenue raising capabilities and seriously impair the ability of a significant number of this nation's public port authorities to undertake vital port development projects. These provisions are aimed at the elimination of the tax exempt status of public port authority bonding authority.

AAPA believes that it is the responsibility of the Administration to determine and make public the cumulative impact of all their various proposals affecting the U.S. port system. AAPA urges the members of this Committee to be aware of the entirety of all the Administration's policy proposals and their aggregate effects on this nation's port system.

Respectfully Submitted,

J Ron Brinson

J. Ron Brinson

President

American Association of Port Authorities

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE WATER RESOURCES SUBCOMMITTEE OF THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE REGARDING S. 366

May 30, 1985

Farm Bureau appreciates the opportunity to comment on S. 366, the bill to authorize the U.S. Army Corps of Engineers to construct various projects for improvement to rivers and harbors of the United States. This legislation is identical to S. 1739, introduced in the last Congress, but which, unfortunately, did not reach the Senate floor prior to adjournment.

The Senate Committee on Environment and Public Works and the House Public Works and Transportation Committee have been working on waterway legislation for the past four years. Every effort has been made to reach a compromise that will be favorably accepted by the House and Senate and signed into law by the President. As Chairman Abdnor stated at the time he introduced the bill earlier this year, S. 366 is also a compromise between big ports and little ports, between the railroads and the inland waterway interests, between the shippers of grain and coal and the shippers of containerized cargo.

Most importantly, however, the legislation is vital to the nation's economy. The navigable waterways of the United States serve 41 states, affecting more than 90 percent of our population. In the past forty years, the volume of freight transported on shallow draft waterways has tripled and now totals some 300 billion ton-miles of commerce annually. A recent study by the U.S. Army Corps of Engineers projects growth to reach 325 billion ton-miles by the year 2000 and 588 billion ton-miles in the year 2030.

For us to continue to share in the growth of the world agricultural trade, we must work together to keep our farmers and businesses competitive in the world market. We must make sure that we do not further weaken farmers and the farm sector by inequitable waterway user fees or government regulations that add to the cost of producing and selling in a competitive world market.

Since agriculture is a primary user of the inland waterway system, we fear most of the user fees will be passed on to the farmer. Farmers will be faced not only with increased grain transportation costs, but also with increased costs for fertilizer, chemicals and other products transported on the inland waterway system. In addition, increased user fees could have a negative impact on the U.S. share of the world grain trade. As the largest agricultural organization in the United States, Farm Bureau's principal concern is increasing income opportunity and improving profitability of farming. We hope the members of this Committee share our concern that these issues be addressed and considered by Congress before any additional waterway fees are enacted.

Mr. Chairman, it should be the goal of the Senate and House of Representatives that the stalemate both resulting in the virtual halt of water resources projects be brought to an end. S. 366 is ready for consideration by the full Senate. The legislation was the subject of extensive hearings last year and was favorably reported by three committees. As you know, no waterway legislation has been enacted since 1976. It has been nearly fourteen years since the last major water resource project and policy bill has been signed into law. In the meantime, federal capital spending in navigation, flood control, and other projects has declined and new projects, long since ready for authorization, await congressional action. Local investments are ready to be made to supplement the federal cost of the projects, once the federal commitment is made. In short, the delays deny the public the economic and safety benefits of the projects.

We hope the 99th Congress will not perpetuate a policy of no growth and no improvements by continued inaction. Policy makers in the Administration and the Congress have proposed a number of different solutions, none of which has met the concerns of all the different interests. This situation has pointed up the need for a new approach which would expedite the modernization of our ports and inland navigation system.

We accept the imposition of a reasonable user fee on water transportation dedicated for waterway purposes providing that its basis and maximum level are clearly established in advance and the proceeds are utilized for those waterways. Any user fee applied to water transportation should be at a level which will provide no more than that portion of the cost of waterways allocable to transportation, inasmuch as the waterways also provide significant public benefits in recreation, wildlife preservation, public water supply and flood control. Any system of such user fees should be developed and administered as a uniform fee in order to maintain existing shipping facilities.

This funding approach would provide a useful tool in the transition from 100 percent federal government funding of projects toward increasing levels of private sector funding of lock and dam improvements. It would define the share of private sector costs for each lock and dam modernization project. As the actual traffic on the system increases, the assessed taxes pay for a greater portion of the cost of investment.

A similar approach could be instituted for our ports and harbors. Any funding approach involving both the private and public sector should incorporate features that direct the amount of capital expenditures to those projects most critically in need of improvement.

We understand an effort is being discussed to split the omnibus water resources bill into two bills, one dealing with harbor and flood control, the other with inland waterways. Farm Bureau would not object to such a proposal as long as it would not result in the abandonment of efforts to enact legislation authorizing inland waterway improvements. We recognize the need to improve both our inland waterways and ports and harbors and hope Congress will promptly approve these critically needed projects.

We thank you for the opportunity to comment on S. 366.

AMERICAN PUBLIC POWER ASSOCIATION
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Statement
of
AMERICAN PUBLIC POWER ASSOCIATION
Submitted to the
Senate Committee on Environment and Public Works
Subcommittee on Water Resources
on
S. 366 AND S. 534,
THE WATER RESOURCES DEVELOPMENT ACT OF 1985

May 15, 1985

The American Public Power Association (APPA), the national service organization representing more than 1,750 local publicly owned electric utilities throughout the United States, submits this statement to the Water Resources Subcommittee of Senate Environment and Public Works Committee on the Water Resources Development Act of 1985, S. 366 and S. 534.

More than 600 local public power systems and 500 rural electric cooperatives buy power from federal dams. Thus, we have a keen interest in cost-sharing requirements of these bills. APPA supports the cost-sharing provisions for federal hydroelectric projects contained in Title VI of S. 366 and opposes the cost-sharing provisions in S. 534. We urge this subcommittee to oppose any change in financing requirements for federal hydro projects.

As you know, publicly owned electric utilities, as well as rural electric cooperatives, are entitled to preference or first right to purchase power produced at federal dams. The preference concept is based on the principle that the nation's water resources belong to the people, and the benefits of these resources should be distributed directly to the people through nonprofit, consumer owned utilities. In any financing plan, preference rights of public power systems must be preserved.

The Administration's proposal, S. 534, introduced by request by Chairman Stafford, would eliminate these traditional preference rights. The Administration's plan requires 100 percent upfront financing for all hydroelectric projects from a nonfederal sponsor. No preference would be given to public power systems in the selection of a nonfederal sponsor, nor in marketing the power. Any entity which advances the upfront construction funds would be given the power in proportion to the amount of the contribution without regard to preference. The bill does not authorize any particular hydro project, but requires upfront financing for all hydroelectric projects authorized before or after enactment of the act.

In contrast, S. 366, introduced by Senator Abdnor and 22 cosponsors, requires that all power from federal projects, whether financed by private or public funds, be marketed through the appropriate power marketing agencies in accord with preference provisions of existing law (Title VI, Section 601[a][1]). The bill retains the existing policy on federal hydroelectric power plant construction, which requires that 100 percent of the project costs attributed to power be repaid over the life of the project by the power users. The bill does not require upfront financing of hydro projects. It allows, but does not require, power marketing agencies to accept advances of funds by power purchasers, which are transferred to the construction agency for construction of the project. As did S. 1739, the bill reported from the Environment and Public Works Committee last year, S. 366 would authorize nine hydroelectric projects. We urge this subcommittee to retain those provisions of S. 366 relating to hydroelectric project financing.

APPA understands the budgetary restraints that prompt nonfederal financing proposals. However, with respect to power projects, it is our opinion that the term "cost sharing" is a misnomer since power users repay 100 percent of the projects' costs, along with interest, operation, and maintenance expenses. The federal power program not only pays for itself, it also pays for other functions, such as irrigation assistance, salinity control, and water augmentation. Federal hydropower facilities pay a greater return to the Treasury than any other category of public works water development projects.

The Association's membership has given much thought to alternative means of financing hydroelectric projects. The membership continues to believe that federal funding is the best way to finance federal hydroelectric projects. However, when federal funding is not feasible, public power utilities and rural electric cooperatives must be granted a right of first refusal to contribute development funds, and should be entitled to power produced proportionate to their financial contributions. Cost-sharing should not be required across the board, but rather be applied on a case-by-case basis. APPA's criteria for evaluating new cost-sharing proposals include the following: (1) consistency with existing preference laws; (2) federal control over development; (3) federal marketing of power from federal projects; (4) cost-based pricing of federally developed projects.

An example of a nonfederal financing plan which meets APPA's criteria and which we endorse is the Town Bluff hydropower project contained in the Army Corps of Engineers FY 1986 budget request. The project will be financed by a preference entity, the Sam Rayburn Municipal Power Agency. Power will be marketed under existing preference laws. The federal government will own and operate the project.

APPA also opposes the Administration's proposal to require cost-sharing for feasibility studies. This is a sure way to eliminate hydro development in many parts of the country which are economically depressed and cannot afford to spend money to examine the feasibility of a project.

In summary, APPA continues to oppose an across-the-board 100 percent cost-sharing requirement for hydroelectric projects advanced by the Administration in S. 534. That bill eliminates preference to local public agencies and rural electric cooperatives in the sale of federal power by providing that *any* entity which advances upfront money be given power proportionate to its contribution without regard to preference. Further, a rigid formula for cost-sharing for all projects is inappropriate. Each project is different and should be evaluated on a case-by-case approach. APPA supports Senator Abdnor's bill, S. 366, which recognizes that 100 percent of the projects costs, plus interest, operation, and maintenance attributed to power, are repaid over the life of the project by power users. We urge this subcommittee to accept the financing provisions relating to hydroelectric projects in S. 366 and to reject those in S. 534.

STATEMENT
OF
WILLIAM H. DEMPSEY
PRESIDENT

ASSOCIATION OF AMERICAN RAILROADS

ON
INLAND WATERWAY POLICY AND PROJECTS
S. 366 and S. 967

I am William H. Dempsey, President of the Association of American Railroads. Our members operate 94 percent of the total railroad mileage in the United States, employ 92 percent of the nation's railroad workers, and handle 98 percent of the nation's railroad freight traffic. I would like to submit for the record the freight railroad industry's views regarding new Federal water projects legislation.

America's freight railroads have a clear interest in public policy regarding inland navigation projects. Railroads compete with the nation's inland commercial barge lines for a substantial portion of freight traffic. Because inland navigation projects are financed by the general taxpayer, railroads -- which build, operate, maintain, and pay taxes on their own rights-of-way -- suffer an artificial competitive disadvantage. Rail shippers who must compete in the marketplace with barge shippers are also adversely impacted.

The Administration has proposed legislation which would provide important and necessary changes in this nation's policy for inland waterways. This legislation would achieve a reasonable compromise, providing needed rehabilitation for our inland system while reducing the subsidy. The Administration's 70 percent level of cost recovery is the minimum that should accompany any further expenditures both for new projects and for operating and maintaining the existing system.

The Need for Increased Cost Recovery

Waterway user charges now cover less than 10 percent of Federal expenditures on inland navigation facilities. Economic efficiency and simple equity require a much higher level of cost recovery from users. The barge operators who use inland waterway facilities should pay for the navigation-related costs of new construction and the costs of operations and maintenance. In the absence of full cost recovery user fees, waterway development expenditures are a direct subsidy to rail-competitive barge operations.

Transportation rates should be based on the true costs of providing service -- including right-of-way costs. When the general taxpayer subsidizes waterway facilities, these costs are not reflected in transportation rates. Market signals are thereby distorted, reducing economic efficiency. Even in cases where rail costs are lower than the real costs of barge service, traffic will sometimes move by water because inadequate user charges allow barges to underprice railroads.

In addition to harming the railroad industry, this subsidy hurts shippers in areas without subsidized barge facilities. These shippers are forced to compete on the basis of full transportation costs. Their competitors, using water transport pay rates that do not reflect actual transportation costs, can set prices that do not incorporate full economic costs. The subsidy thus disadvantages non-water shippers and their regions.

The inimical effects of the waterway subsidy are not limited to the transportation market. The subsidy also contributes to record Federal deficits. At a time when all Federal programs are subject to budget constraints, the inland waterway subsidy should be a leading candidate for reduction. Trimming some of the almost $700 million annual inland navigation subsidy would help reduce the deficit. Higher cost recovery through user fees would allow important projects to go forward while lessening the budget deficit.

The Administration's Bill

This February the Administration sent to Congress a comprehensive inland waterway proposal (S.967). There are three important provisions of the Administration's proposal regarding inland waterway cost recovery:

(1) Allowing Inland Waterways Trust Fund monies to be spent on new construction.

(2) Levying a new user fee of 1.5 mills per ton-mile that would recover approximately 70 percent of annual operations and maintenance costs.

(3) Establishment of an Inland Waterways Users Board.

The Inland Waterways Trust Fund

The Trust Fund had accumulated a balance of $133.1 million by the end of fiscal year 1984. No Trust Fund money has been spent for construction, operation or maintenance of facilities. One provision of all current waterways legislation, including the Administration's bill, is to begin using these funds. It is important to remember that spending the Trust Fund will not increase the level of cost recovery; it would simply allow user fees to replace general revenues as the source of construction spending.

The Trust Fund money should be spent now to replace general tax revenues as a source of inland waterways expenditures. There is no reason to continue collecting Trust Fund money and not spend it.

A New User Fee

Levying the new user fee of 1.5 mills per ton-mile will increase cost recovery. At the present time, maintenance and operations amounts to just over half of the Corps inland waterway budget. The proposed fee would cover 70 percent of these expenditures. While full cost recovery of O&M expenditures remains an important goal, the Administration's bill is a major step toward a more equitable cost recovery system.

Users Board

As the waterways industry is asked to contribute a larger share of waterway funds, it is appropriate that they be given a more formal voice in deciding which projects receive priority. The Users Board is a possible approach to providing the industry with this voice. The Users Board could provide valuable advice in determining which projects are most needed and most beneficial and contribute to a more efficiently managed inland water system.

Other Legislation

The Committee also has before it last year's Senate omnibus legislation, now titled S. 366. This legislation contains no provisions for increased cost recovery for either new construction or O&M expenditures. It requires that all new construction be paid from Trust Fund monies. While it is appropriate that the Trust Fund money be spent and not allowed to accumulate, this does not increase cost recovery but simply allows user fees to replace general revenues as the source on construction spending.

The Administration's bill is better because it provides needed rehabilitation of our waterways while reducing inland navigation subsidy through higher cost recovery. The Administration's legislation would represent a significant improvement in waterway policy and a major step toward full cost recovery for inland waterway expenditures.

Separating the Inland Provisions from the Rest of S.366

The inland navigation issues appear to be too contentious to permit a solution including adequate levels of cost recovery. Without adequate cost recovery, there should be no new projects. Since an acceptable solution does not appear imminent, we support removing the inland provisions for a separate bill. That way the inland provisions can receive more consideration while the port and other aspects of S. 366 can move ahead.

Conclusion

Economic efficiency and equity demand that transportation rates reflect the true costs of providing service. When the general taxpayer subsidizes waterway facilities, waterway rates do not incorporate the cost of these facilities.

The Administration's legislation provides significant improvements to this nation's current water development policy by reducing this subsidy. This legislation represents a good compromise between the need to end waterways subsidy and the need for rehabilitation of our inland system. The Administration's 70 percent level of cost recovery is a major step toward ending the waterways subsidy and should accompany any new water spending.

Statement On

The Inland Navigation Aspects of S. 366

(The Water Resources Development Act of 1985)

For

Record of the May 10 & 16, 1985
Water Resource Development Hearings

Held By

Subcommittee on Water Resources
U. S. Senate Committee on
Environment and Public Works

Prepared By

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May 24, 1985

Introduction

This statement has been prepared and submitted for the record of the Subcommittee on Water Resources' hearings on May 10 and 16, 1985 to review S. 366, the Water Resources Development Act of 1985, and companion measures proposed by the Administration. The purpose of this statement, which is limited to the inland navigation aspects of S. 366, is to assist the Subcommittee (and the full Committee) to better understand the background details regarding some of the more controversial issues and to propose a course of action for resolving these issues.

This statement re-emphasizes, and expands on, certain portions of my detailed statement submitted for the record of the Jan. 24 & 25, 1984 Subcommittee hearings and presented on pages 426 thru 452 of the printed hearings (S. Hrg. 98-642). Since reference is made to my 1984 statement, the table of contents and list of attachments, which had been submitted but not printed, is presented as Attachment A to this statement with the hearing print page numbers.

Also included in this statement is background information on, and an analysis of, the navigation/transportation studies which were made to assist the Upper Mississippi River Basin Committee in developing the Comprehensive Master Plan for the Management of the Upper Mississippi River System, which is referred to in Sec. 504 of S. 366. While a summary of my professional background was presented in my Feb. 4, 1984 letter to the Hon. Robert T. Stafford, which transmitted and summarized my statement for the 1984 Subcommittee hearings, additional background information is presented to indicate the extent to which I was involved in the Master Plan Studies. As is shown on the inside back cover of the Comprehensive Master Plan dated Jan. 1, 1982, I served as "Public Observer - Economics" for the Great River Study Committee which prepared the Master Plan. In addition, I was a non-voting member of the Master Plan Task Force and a voting member of the Navigation/Transportation Work Team. During the period from October 1979 through December 1981 I attended a total of 47 meetings of these three committees.

I. Primary Concern That the Costly Inland Waterway Replacement Expenditures Authorized in S. 366 Would be Largely a Waste of Federal Funds

My primary concern is that the 15 inland navigation projects which would be authorized in S. 366 include six lock and dam replacement projects having a total construction cost in excess of one billion dollars. Serious consideration must be given as to whether these costly replacements even come close to representing a sound federal investment. These projects have probably been recommended by the Corps primarily on the basis of its own proclaimed planning objective that "this nation needs and deserves a first-rate water transportation system". While the Corps went through its long and involved procedure for obtaining a favorable benefit/cost ratio for these projects, their feasibility determination is of little value and should be terminated.

For example, let's take a look at their proposed 313 million dollar modernization of the Gallipolis Lock and Dam which is intended to permit an additional 15 million tons of waterway traffic by the year 1990. While probably no inland waterway project was evaluated on the basis of whether it was needed and of advantage to the nation's total transportation system, let us at least consider the question of the adequacy of the existing total transportation system capacity. The main conclusion from a study conducted by CONSAD Research Corp. for the Corps' Pittsburg District was that an estimated expenditure of only 8¼ million dollars for railroad right-of-way improvements would be required for the existing railroad system to handle 94% (or 81.6 million tons annually) of the total traffic on the Upper Ohio River waterway system. On the basis of the nation's total transportation capacity needs, the unreasonableness of spending $313 million to modernize a single lock and dam on the Ohio River system is compounded by the fact that not only the need for more capacity but a substantial portion of existing waterway traffic is dependent upon the continued federal subsidy including the cost of operation and maintenance.

What about the fact that the Corps came up with a

B/C ratio of over 12 to 1 for this project, does this mean that federal funding is justified? The answer is no because of the fact that these are the benefits to the waterway users, in reduced lockage delays and in transportation rate savings for the additional traffic which would move through Gallipolis, rather than benefits to the nation. On the one occasion the Corps obtained an evaluation of an inland waterway project from the national viewpoint in addition to the waterway user viewpoint, the benefits to the nation were only 1/14th the benefits to the users. As pointed out in my 1984 statement, Congress and the public continue to be misled by the assertion, such as was made on the floor of the House during the Oct. 5, 1983 discussion of H.R. 3958 by Rep. Myers, that the Corps' benefit-cost ratio of, say, 12 to 1 means for every dollar invested "the taxpayers" (i.e. the public) get back 12 dollars. This is, of course, totally absurd since these are the benefits to the users of the project and not to the nation (i.e. the comprehensive public).

Since the benefits in the B/C ratio represent the savings to the waterway users, the current users of the Gallipolis locks should be beating a path to Congress to express their desire to help finance the replacement project since, according to the Corps' report, they would receive $12 in savings for every dollar invested. But, of course, this is not the case primarily because the benefits are largely nonexistant. As the nation's leading expert on the analysis of Corps inland waterway studies and a former Corps consultant, Penn. State Univ. Prof. Joseph L. Carroll, stated in a joint paper with one of his associates:

> "If the two case studies presented herein are more or less typical of the feasibility studies being produced by the Corps, and we believe they may be, then the public would be better off without them. Thus if for political reasons no meaningful reform of navigation project evaluation practices and procedures is possible, we suggest eliminating the requirement for economic feasibility studies altogether."

This discussion (of whether the lock and dam replacement recommendations are cost effective from even the waterway users' viewpoint) is not intended to suggest there should be no improvement at Gallipolis or at the other lock and dam locations. The important point is there are undoubtedly less costly and far more feasible alternatives (such as existed at L & D #26) that the waterway users are aware of but which have not surfaced solely because the users have gone along with the Corps' recommendations. As long as the users can obtain costly "first-rate" waterway improvements with little or no contribution of funds on their part, there is no reason to raise questions regarding the feasibility of these improvements. It is only when the users are faced with the possibility of paying for these improvements that they are willing to come forward with more realistic estimates of their benefits and/or with less expensive alternatives. As explained in my 1984 statement on hearing print page 435, this was the case with the proposed 525 million dollar deepening of the Mississippi River below Baton Rouge. A transportation official from the industry which the Corps claimed would receive some 50% of the project benefits was quoted in the New Orleans Times-Picayune newspaper article on Aug. 29, 1982 as saying the Corps' calculations of benefits are "totally absurd as far as the grain business goes." His estimate of the savings for the entire grain industry was only 1/70th to 1/35th of the Corps'.

II. Certain Subcommittee Assumptions Need to be Questioned in View of the Serious Deficiencies in the Corps' Planning and Evaluation of Inland Waterway Expenditures

Certain assumptions made by the Subcommittee seem unwarrented in view of the following deficiencies regarding the Corps' planning and evaluation of inland waterway expenditures which were discussed in my statement for the Jan. 24 & 25 1984 hearings:

1) failure to evaluate expenditures from the public viewpoint and with reference to the nation's total transportation system,
2) failure to determine what portion of the savings to the users is merely an income transfer from one mode to another with no net benefits accru-

ing to the nation,

3) viewpoint that, with its planning objective of obtaining a "first-rate" water transportation system, additional considerations are not needed,
4) evidence that their estimated benefits to users greatly exceeds the user's estimate of benefits,
5) conclusion by Prof. Carroll that the Corps' "evaluation process --- has simply become an undesirable obstacle to be overcome by whatever means necessary",
6) proven fact that less expensive and more feasible alternatives, favored by the users if required to help pay for the project, do not surface.

The crucial assumption, which is untenable and needs to be re-evaluated, is that the inland waterway expenditures recommended by the Corps are acceptable projects. This assumption was stated as follows:

> "All the projects in this bill have completed the Corps' planning and review process, and I believe they can be assumed to be acceptable projects --". (also) "I believe we can assume the Corps knows what it is doing."

This has led to a second assumption which is that it is most important for Congress to provide the "large infusion of capital" (some $28 billion) which the Corps has said (in its National Waterways Study) is needed for the inland waterway system including a "short-term Federal commitment of nearly $4.5 billion". The Subcommittee has apparently concluded that the most important inland waterway issue to be resolved is how much and what type of cost sharing by the waterway users is needed (and can be obtained) in order to proceed to fund the "staggering sum" which (it has assumed) is required.

What constitutes the most important inland waterway issue appears to depend on the extent of one's understanding of the Corps' project evaluation policies and practices. For one with a very good understanding, clearly the most important problem is how can Congress obtain a meaningful determination of the need and worth of inland waterway expenditure proposals. There appears to be at least three approaches consisting of the following:

1) Require a significant project planning and evaluation input by the U. S. Dept. of Trans.

2) Establish project financing requirements which will provide a market test of the project need and worth.
3) Require that all future inland waterway project studies present the actual replies from the prospective users as to their need for and anticipated use of the project, estimated savings, possible structural and non-structural alternatives, and willingness to help with financing.

These approaches will be discussed and evaluated in this statement with the basic objective being that Congress should no longer be required to rely only on the Corps for its understanding of the need and worth of proposed inland waterway expenditures.

III. Analysis of the Approach of Obtaining a Significant Project Evaluation Input by the Dept. of Transportation

On order to improve the evaluation of waterway projects, it has often been proposed that the D.O.T. (U. S. Dept. of Transportation) assist the Corps in its economic evaluations. The most recent proposal was presented by Sen. Pete Domenici in S. 533 which was introduced Feb. 27, 1985. Section 5 of S. 533 would require the Secretary of Transportation to "be responsible for the preparation of all calculations on transportation-related benefits for any future water resources project" proposed by the Corps. Also, "a part of such calculations" -- "shall identify, with reasonable specificity, the impact of such proposed project on the usage and the economic viability of competing modes of transportation."

The role of the D.O.T. in the transportation features of water resource projects was considered by Congress when it established the D.C.T. in Public Law 89-670. In the D.O.T. Act as originally drafted, the standards and criteria for economic evaluation of transportation features of multi-purpose water resource projects were to be developed by the D.O.T. Secretary after consultation with the Water Resources Council. This was amended, however, such that the Water Resources Council would continue to establish the standards and criteria for evaluating all water resource projects, including the navigation features. In the D.O.T. Act, Congress did expand the Water Resources Council "to include the Secretary of Transportation on matters pertaining to navigation features of water resource projects."

It is clear from the hearings on the proposed D.O.T. Act that a primary reason for including the D.O.T. Secretary as a Council member was to assure that the Secretary would participate in establishing standards and criteria for the transportation features of water resource projects. As it turned out, no one from the D.O.T. was even on the Water Resources Council's Special Task Force which developed the new Principles and Standards for planning and evaluating water and related land resource projects. Senator William Proxmire expressed his concern that "no one from the Department of Transportation was on the task force which developed the new guidelines" in his introduction of S. 4338 on Sept. 14, 1970.

It is of interest to note that Task Force member Mr. Robert Gidez from the Corps' Economics Division asserted he not only dominated the the Task Force but also stated "I was probably the major author of the Principles document --." (See p. 252 in the Center for Study of Responsive Law report: "Damming the West") Both the sound national objective (that "water navigation facilities -- provide a needed transportation service with advantage to the Nation's transportation system") and the proper measurement of navigation benefits (as the savings to the nation "in the cost of providing the transportation service") which were specified in the prior standards and procedures (that were approved by the President on May 15, 1962 and printed as Sen. Doc. 97, 87th Congress in response to S. Res. 342) were not included in the Council's new Principles and Standards. In addition, the Corps' usual rate savings to shippers was added. Thus the Corps, through its influence on the Water Resources Council, was able to terminate the sound national planning objective with, and the requirement for determining the benefits to the nation from, inland waterway projects.

There is no question but that a project evaluation input by the D.O.T. would have been valuable when Congress initially considered some of the recent additions to the inland waterway system such as the

Tennessee-Tombigbee and the Red River. The specific information needed which the D.O.T. could have furnished is that which Sec. 7(b) of the D.O.T. Act requires the Secretary to furnish for other transportation investment proposals, namely:

a) "projected growth of transportation needs and traffic in the affected area",
b) "the relative efficiency of various modes of transport",
c) "the available transportation services in the area", and
d) "the general effect of the proposed investment on existing modes and on the regional and national economy."

Information item c) and the first portion of item d) were developed by the D.O.T. for L & D #26; however, it is doubtful this information was given serious consideration by the Corps. Information item b), which consists of determining the incremental cost of providing the transportation service, (that is needed for calculating the benefits to the nation) was developed for the proposed Lake Erie - Ohio River Canal project by the consulting firm of A. D. Little under contract to the Corps' Pittsburg District. The Pittsburg District subsequently rejected the use of incremental costs for evaluating the project and used a comparison of projected rates instead.

For the purpose of up-dating the Corps' economic study of the proposed Tenn-Tom waterway and at the specific request of the Chief of Engineers in his letter of Nov. 2, 1964, a special Task Force of the Association of American Railroads prepared a detailed study of incremental railroad costs in the Tennessee-Tombigbee area. This study documented a methodology whereby relevant railroad costs could be computed for comparison with the estimated costs of operation on proposed waterway projects. A second incremental rail cost study was also prepared in response to the Corps' additional request for an "interim" procedure for obtaining cost estimates directly from the I.C.C. Rail Cost Form A. The Corps made no use of these inremental cost studies in its subsequent evaluations of the Tennessee-Tombigbee project.

In addition to the previously mentioned D.O.T.

studies for L & D #26, the D.O.T. set up a top-level engineering task force inside the D.O.T. to review the engineering aspects, and cost estimates, for rehabilitation of L & D #26. In its report of Aug. 6, 1976 on the rehabilitation alternative, the Task Group recommended the possibility of dewatering of one lock at a time (which had also been proposed in the detailed June 12, 1976 report by the team of engineering consultants employed by the L & D #26 plaintiffs and which was subsequently accepted in the G.A.O. engineering report) to allow sustained, but periodically reduced, waterway traffic thru L & D #26 during rehabilitation. Perhaps the most important recommendation in the D.O.T. report was that in the process of rehabilitating the existing 360 foot lock it be extended to 600 feet in order to minimize the interruption to navigation when subsequently rehabilitating the existing 600 foot lock. While not mentioned, the real importance of this extension is that it would have greatly increased the lockage capacity at L & D #26 and in the exact manner as had been recommended and requested by the barge line operators at a Corps hearing in the early 60's. At that time, the St. Louis District estimated it would cost about $15 million to extend the shorter lock to 600 feet. A very important point here is that this much less expensive alternative for obtaining the additional lockage capacity desired would surely have surfaced and been pushed by the waterway users if required to help pay for any additional lockage capacity at L & D #26.

While the D.O.T. should long ago have been given the responsibility for planning and evaluating inland waterway expenditures in relation to the Nation's total transportation system, the current proposal for the D.O.T. to prepare certain calculations for the Corps' use in its evaluations may be of limited value. For example:

1) It would not help Congress to verify the need and economic feasibility of the currently recommended (and costly) lock and dam replacements.
2) There are other proposals which would re-examine or test the need and worth of these expenditures from at least the viewpoint of the users.
3) As previously shown, the problem of not receiving

acceptable project evaluations was often not because of insufficient information but simply because the Corps chose to ignore the information.

4) Since the Corps has clearly indicated it would rather not be bothered with continuing to justify inland waterway expenditures by means of a benefit-to-cost analysis, why continue to ask the Corps to make such studies?

5) As indicated in my 1984 statement, the Corps' apparent plan for avoiding making any benefit-to-cost study for future waterway expenditures is to have the complete freedom to construct any improvement "the Secretary (of the Army) determines to be reasonable and desirable for commercial waterway transportation" (quoted from Sec. 9a in S. 1554, 98th Congress, 1st Session).

6) The Corps' continued effort to avoid economic feasibility studies also surfaces in Sec. 7 of S. 967 introduced April 22, 1985 with the following statement (the word changes since S. 1554 may make the proposal appear more acceptable): "the Secretary determines that the plan of improvement is feasible and justified." (From the Corps' point of view, no doubt the word "feasible" refers to the "engineering feasibility" and the word "justified" means with respect to the goal of obtaining a first-rate waterway system.)

7) If the roles of the Corps and the D.O.T. in the proposal were reversed (i.e. the D.O.T. would have the overall responsibility for evaluating transportation related expenditures and the Corps would furnish certain information) the proposal would be of far greater value.

8) Rather than seek involvement of the D.O.T. at this time, it would seem more important to involve the waterway users in the decision making process if they are to be required to pay an increasingly greater portion of future waterway project expenditures.

9) While a planning and evaluation input by the D.O.T. is particularly important for proposed extensions to the inland waterway system, future extensions of any significance are unlikely.

10) The waterway system may even be reduced in the future due to a decision to close the high cost

> and little used segments; but this decision needs to be made by the waterway users who would be releaved from continuing to pay the operation and maintenance costs for these segments.

Additional comments are in order regarding the specific requirement in S. 533 that the D.O.T. "shall identify, with reasonable specificity, the impact of such proposed project on the usage and the economic viability of competing modes of transportation". Whether such information is worthwhile can be established, in part, by determining the relative worth of similar information (required by Congress in P.L. 95-502) developed by the D.O.T. for use by the UMRBC (Upper Mississippi River Basin Commission) in its preparation of the "Master Plan". While detailed rail impact information was presented in the D.O.T.'s report "Current Estimates of the Impact of Waterway Expansion on the Railroads" dated Sept. 30, 1980, there was inadequate use of this information and absurd conclusions were drawn.

No attempt was made to use the detailed information on the loss of revenue to the railroads (which would move the so-called "swing" traffic in the absence of the expansion of navigational capacity) to estimate the average annual loss of net income to the railroads. While the "Master Plan" studies merely determined "the savings to shippers resulting from expansion of navigation capacity" (see p. 49 in the Master Plan report), substracting the average annual loss of net income to the railroads (had this been determined) would have provided a measure of the "benefits to the Nation" which Congress specifically asked for in P.L. 95-502 but never received. The worthlessness of determining only the "savings to shippers" was stated by Sen. Daniel Moynihan during the Sept. 10, 1980 discussion of the Tenn Tom waterway on the floor of the Senate as follows:

> "-- the planning process (for waterway projects) is in woeful disorder -- it is economic bad sense to calculate (only) the savings to shippers -- because what is of savings to a shipper may be a loss to a surface transportation system as well. We have to ask the benefits to transportation, not to one mode."

Not only was the loss of rail revenue information not used to determine the net benefits to the Nation, the Master Plan report made the absurd conclusion that this loss could largely be ignored since it would not constitute a very large percentage of the total revenue to the Western railroads and since it would be a loss of future revenue not current revenue. For the navigation capacity expansion scenario selected for the "Master Plan", the D.O.T. estimated the annual loss of rail revenue to be 735, 830 and 950 million dollars for the 20th, 30th and 40th years respectively. The 50 year average annual benefits to the shippers for this navigation capacity expansion scenario, as determined by the North Central Division of the Corps of Engineers, was less than 34 million dollars. This distorted point of view (that the loss of rail revenue can be ignored as long as the railroads could continue to be economically viable) would quite likely be perpetuated by S. 533 with its "economic viability" criteria determination.

One is forced to conclude that the detailed and time consuming D.O.T. rail impact study proved to be of little or no value in developing the Master Plan. In fact, the Great River Study Committee, which drafted the Master Plan that was subsequently approved by the UMRBC, made its navigation capacity recommendation one week before the preliminary draft of the D.O.T. study was available. Developing the rail impact information also tended to shift attention away from the most important determination (which has apparently never been made for any inland waterway expenditure recommended by the Corps) consisting of determining the waterway users' views regarding the need for the project, its economic feasibility, possible project alternatives, and the potential for cost sharing. The most important role which Congress could give to the D.O.T. for the purpose of improving the evaluation of proposed inland waterway expenditures would be to require that it obtain and present the views of the likely users of the proposed waterway improvements (including the six lock and dam replacement projects which would be authorized in S. 366) by means of a simple questionnaire for obtaining the information listed in Section B of Part III of my statement for the Jan. 24 & 25, 1984 hearings.

IV. Analysis of Proposal to Establish Project Need and Worth by Means of Project Financing Requirements

A sound and practical alternative to the Corps' studies of whether inland waterway projects are needed and economically justified is to determine (prior to any authorization) whether certain financing requirements can be met. One of the main concerns expressed by the House Public Works Subcommittee to Study Civil Works in its Dec. 5, 1952 report on "The Civil Functions Program of the Corps of Engineers, United States Army" (Printed as House Committee Print No. 21, 82nd Congress 2d Session) was "-- the faultiness of (the Corps') present practices in economic evaluation" -- which have resulted in project feasibility estimates which "furnish an air of engineering authority to a report but are worse than meaningless." "They have no real validity and -- Congress is then misled into taking action on the basis of deceptive computations." (see pages 17, 18 & 35) The same situation exists today particularly with the Corps' studies of proposed inland waterway expenditures. The concluding paragraph in the Economic Justification section of the 1952 report was as follows:

> "The subcommittee believes that a skeptical approach should be taken in the acceptance of favorable economic analysis based entirely on theoretical and mathematical computations. A more practical measure of the worthiness of an undertaking is the willingness of the immediate beneficiaries to participate in the work by the contribution of funds proportionate to the local benefits."

During the hearings on L & D #26 held by the Task Force on Locks and Dam #26 of the Midwestern Conference of the Council of State Governments on Nov. 17-18, 1976, the Task Force Chairman, Nebraska State Senator James A. Dickinson expressed his concern about the benefit/cost calculations by U. S. Government agencies. He questioned "if the government agencies' mathematics in B/C calculations for water resource projects is the same kind of mathematics used by private industry, which knows they have to come out on top or they would go bankrupt". He said that with the present situation, "nobody goes broke except the taxpayers and the country goes deeper into debt". He suggested "the Government ought to start planning some things on the good old private enterprise, profit incentive motive instead of with taxpayers' dollars where the direct beneficiary is not the direct payback of the money used." He Also suggested "putting the proposed L & D #26 replacement investment to the test of whether a bonding company representative could sell revenue bonds (for financing the project) to people based on the Corps' economic figures for such projects." He asked Robert Daniels, an economist with the Corps' St. Louis District, if "bonding company representatives would accept the Corps' project justification figures unequivocally, or would they want to conduct more study of their own before they would agree to start to sell revenue bonds?" Mr. Daniels stated: "Obviously they would want to do a study of their own --."

If a market test consisting of project financing requirements is to be used as a substitute for an economic feasibility study, it is essential that the market test results would: 1) be available prior to any decisions regarding authorization and construction of the project and 2) permit the Congress and the public to determine with reasonable certainty if the project is needed and economically justified. To meet this criteria, the market test must establish the extent to which non-Federal up-front money can be obtained and the likelihood that the project users could repay the initial and on-going project costs. While the ideal market test would be whether the project could be financed entirely by interest bearing revenue bonds which would not be purchased nor secured by the Federal Government, a project might be considered of sufficient value if, say, 50% of the initial cost and all of the on-going costs could be covered by revenue bonds. An example of a water project financed 50% by revenue bonds is the $60 million Toledo Bend Dam on the Sabine River that separates Texas and Louisiana. In this case financing was accomplished without Federal participation by a cash contribution of about $15 million from each state and the sale of $30 million in revenue bonds.

The importance of non-Federal up-front money in providing a real market test was indicated by Sen. Abdnor, during the June 21, 1983 Subcommittee hearing on bills relating to deep draft channels and harbors, when he asked of Mr. Charles Swinburn, Acting Assistant Secretary of Transportation:

> "Mr. Secretary, since S. 865 provides no non-Federal up-front financing of new harbor projects, how does it provide any real market test?

The requirement in Section 911 of S. 366 that no construction of any of the three very costly deep-draft harbors and/or ship channels that would be authorized in this section shall be undertaken unless there is evidence a non-Federal sponsor can raise the funds necessary to pay 25% of the project cost during construction and then pay an additional 25% over a 30 year period is certainly a step in the right direction. A major disadvantage of the use of project financing requirements to check the need and economic worth of proposed inland waterway projects such as the six costly lock and dam replacement projects which would be authorized in S. 366 is the fact that less costly and more economically justified alternatives are unlikely to surface.

V. Importance of Obtaining the Waterway Users' Views to Establish Project Need and Worth

The waterway users should assume a greater role in the planning, the evaluation, the construction, and the operation and maintenance of inland waterway expenditures. In view of the serious faultiness of the Corps' economic evaluations, it is particularly important to begin to capitalize on the capabilities of the waterway users to weed out the less feasible waterway expenditures. This can be accomplished quickly and inexpensively thru the direct mailing of a simple questionnaire to obtain the users' views regarding: 1) the need for the project, 2) the economic feasibility, 3) other structural or non-structural alternatives which should be considered, 4) anticipated benefits, and 5) willingness and ability to help pay for the project. It is proposed that the D.O.T. be given the responsibility for obtaining and presenting the waterway users' views for each of the unauthorized inland waterway expenditure recommendations by the Corps. It is also proposed that future inland waterway project authorizations be limited to those projects for which the replies from the anticipated users indicates the amount the users and beneficiaries are willing to pay towards financing the project is at least 50% of the average annual cost, with interest, of constructing the project plus 100% of the annual cost of operation and maintenance.

VI. Importance of Replacing the Fuel Tax By A Ton-Mile Charge to Recover a Portion of the Operation and Maintenance Costs

As an alternative to the Administration's proposal in S. 1554 (98th Congress 1st Session) of collecting 70% of the systemwide operation and maintenance expenditures with a ton-mile fee (set at an initial rate of 1.1 mills per ton mile) on shipments originating after Sept. 30, 1983, I recommended in my 1984 statement a ton-mile fee for collecting 50% of the O & M costs which would be phased-in over a period of three years. The advantages of this proposal over the Administration's being:

1) the 50% recovery level is far more realistic than the 70% recovery level,
2) a phase-in period of three years is provided, and
3) it (together with the responsibilities I recommended for the Inland Waterways Users Board proposed in S. 1739) would provide the opportunity (and responsibility) for the waterway users (rather than the Corps) to make the final decisions regarding the level of O & M expenditures.

This proposal would permit the waterway users to not only reduce the level of systemwide O & M expenditures (and reduce their ton-mile payments by $1 for each $2 reduction) but also to discontinue O & M expenditures "for those waterway segments where the ratio of the ton-miles generated to the annual O & M costs falls below a given level."

My 1984 statement also recommended "the current fuel tax being paid by the bargelines be terminated" -- ("once the shippers begin to pay for a portion of the operation and maintenance costs.") While it was not stated, the obvious reason for termination being that the fuel tax would be replaced by a much better cost sharing arrangement.

Perhaps the most important reason for terminating the fuel tax is that the funds collected, rather than being retained in the general fund of the U. S. Treasury, are transferred to a "Trust Fund" which is available for expenditures for navigation construction and rehabilitation projects on inland waterways. The accumulation of funds in the Trust Fund tends to put pressure on Congress to authorize inland waterway projects regardless if they are economically justified. This cost sharing approach is faulty because the waterway users have little or no say as to how these funds are spent. The absurdity of this situation is compounded by the fact that the views of the waterway users are not being obtained sought in connection with the studies for evaluating the inland waterway expenditures being recommended for authorization. A good case can be made for the point of view that the public would be better off without the inland waterway fuel tax and Trust Fund particularly in view of the present situation in which the primary justification for the authorization and construction of costly inland waterway expenditures appears to be "that 50% of the cost of new inland navigation lock and dam construction projects will be funded from receipts contained in the Inland Waterway Trust Fund." The fuel tax has not improved the decision making process nor encouraged more cost effective work; in fact, the opposite appears to be the case.

Others with a good understanding of these matters also believe very strongly that the current fuel tax should be replaced by a ton-mile charge to recover a portion of the cost of operating and maintaining the inland waterway system. For example, the following comments are taken from the summary statement or the written statement by Charles F. Lehman, Vice Pres. of American Commercial Barge line Co., for the Subcommittee hearing of Jan. 24 and 25, 1984:

"We have always believed the 1978 Act (Public Law 95-502) was the wrong legislative approach to solving the economic problem of providing for the financing of the commercial shallow draft barging system in this country."

"The present fuel tax has no relationship to the recovery of costs on the inland waterways. It is simply an excise tax levied as a revenue raiser. Any tax imposed on waterway use should be clearly associated with freight transportation in order that the benefits to costs providing service are clearly identifiable to the users."

"Cost recovery taxes or fees should not be hidden in general vessel operating conditions."

"-- it is very difficult, if not impossible to associate your costing mechanisms with a fuel tax. The ton-mile charge would be associated directly with each movement."

"People talk about the fuel tax being an easy tax to administer. Really it is not. I would venture to say that I don't think the Government is collecting all the fuel tax due it."

"It is, therefore, proposed that the cost for operations and maintenance of the channels and structures be recovered through a waybill type charge on each ton-mile of freight moved on all common, contract, private or public carriers."

"Upon imposition of a ton-mile charge on the users of waterway projects, the present fuel tax now imposed on commercial waterway vessels by Public Law 95-502 must be rescinded."

While my 1984 statement proposed a ton-mile fee which would be adjusted the first year to recover 25% of the systemwide O & M costs, in view of the subsequent increase in annual O & M costs, it is recommended the ton-mile fee for the first year be set to recover essentially the same as would be collected from the fuel tax which it would replace. Assuming the revenue from the fuel tax averages about $6 million for every 1¢ per gallon tax, with a 10¢ per gallon tax after October 1985 the ton-mile fee should be adjusted to recover about $60 million of the total O & M costs the first year. Since this might amount to only about 15% of the total O & M costs, it is recommended the ton-mile fee be phased-in over a four (rather than a three) year period with the recovery level being, say, 28%, 40% and 50% for the 2nd, 3rd, and 4th (and successive) years.

A portion of Mr. Lehman's remarks regarding the importance of discontinuing little used waterway segments is as follows:

"Our navigation industry must not be saddled with unprofitable branch arteries which might cost more to maintain than would be economically feasible if one were viewing the waterways as we would our own private businesses and making business decisions as to its future." (For this reason, the waterway users must) -- "be allowed to make an economic decision and recommendation as to the viability of continued operation on a marginal segment --."

VII. Deficiencies in the Navigation/Transportation Portion of the Master Plan Developed by the UMRBC

In Section 101 of Public Law 95-502, Congress gave the UMRBC (Upper Mississippi River Basin Commission) the responsibility of preparing "a comprehensive master plan for the management of the Upper Mississippi River System." Since Sec. 504 of S. 366 would approve the Master Plan "as a guide for future water policy on the Upper Mississippi River System" and also authorize a costly second lock at L & D #26, it is important for Congress to understand that not only were the Corps' deficient navigation project evaluation procedures used in the Master Plan studies, but important provisions of P.L. 95-502 were never accomplished by the UMRBC.

As pointed out in the last two pages of Section III of this statement, while Congress in P.L. 95-502 asked for the "benefits to the Nation" to be derived from any expansion of navigational capacity, only the "savings to shippers" was determined by the UMRBC. Furthermore, no attempt was made to use the detailed rail impact information developed by the D.O.T. to estimate the loss of net income to the railroads which, when substracted from the savings to shippers, would have provided an estimate of the net "benefits to the Nation."

In its selection of studies to assist in developing the Master Plan and in its preparation of the Master Plan, the UMRBC essentially completely ignored the system objectives dealing with navigation/ transportation which were to be achieved by the

Master Plan. These objectives, which are similar to the "national economic development" objectives in Sen. Doc. #97, 87th Congress, were stated as follows (see p. 29 in the Master Plan Report):

> "To meet the future demand for the movement of goods through development and maintenance of a dependable and efficient transportation system which makes wise use of our Nation's resources including energy." (and)
>
> "To provide those economically justified commercial navigation improvements and expansion projects which are found to be needed and of advantage to the nation's total transportation system."

While the UMRBC made little or no use of the system objectives (dealing with navigation/transportation) in their development of the Master Plan, this was clearly not the intention of Congress. Section 101 (c) of P.L. 95-502 states that after identifying the system objectives the Commission shall "recommend guidelines to achieve such objectives." No such guidelines were developed and the Commission also did not carry out the additional P.L. 95-502 directive to "prepare methods to assure compliance with such guidelines."

The Master Plan report does not claim that the navigation capacity expansion recommendations would help to achieve the system objectives. Since the U.S.D.O.T. report on "The Replacement of Alton L & D #26" dated Sept. 1975 estimated the excess rail capacity of the North-South railroads to the Gulf Ports to be between 260 and 485 million tons of traffic annually, it would be most difficult to attempt to justify, from the national viewpoint, the expenditure of $245 million to permit an additional 45 million tons of traffic annually to move thru L & D #26 by the year 2040. The Master Plan report claims there is an "economic need" for a second lock at L & D #26, from the viewpoint of the waterway users, since the estimated annual "savings to the shippers" exceeds the estimated annual cost of the additional navigation capacity. The serious (and still unresolved) problem is that these estimates are based on the same faulty feasibility studies which the 1952 House Subcommittee report stated are "worse than meaningless" and Professors

Carroll and Rao concluded "the public would be better off without."

Some of the sources of error in the Corps' estimates of the savings to shippers were pointed out in Section D of Part I of my detailed statement for the record of the Jan. 24 & 25, 1984 hearings. Specific reference was made to the Master Plan report page 57 which shows the estimate of savings as determined by the St. Louis District for the various navigation expansion scenarios to be 3.7 to 4.5 times greater than the estimates determined by the North Central Division. This tremendous difference in estimated savings indicates the magnitude of the possible errors in the Corps' estimates.

Some of the important conclusions from the D.O.T. study of "the relationship of any expansion of navigational capacity on the Upper Mississippi River System to national transportation policy" presented on pages 69-71 in the Master Plan report are:

> "In recent years, there has been a conviction that national transportation goals can best be achieved by placing maximum reliance on decision making in the private market sector."
>
> "-- for the most part, the country's transportation system is built." -- (and in view of this) -- "Expansion of existing facilities and new facilities must meet strict economic standards."
>
> "Economic subsidies which distort the market process are to be reduced and eliminated in all modes."
>
> "These principles intensify the concern that any proposals for new waterway improvements be truly well justified and provide for cost recovery."
>
> "National transportation policy supports transportation capacity expansion based on demand and the willingness of the users to pay for it."

These national transportation policy goals will not be met by continuing to rely on (as the UMRBC did in developing the Master Plan) the typical economic feasibility studies produced by the Corps. What is needed is to capitalize on the capabilities of the project beneficiaries to establish the economic feasibility of the project and their willingness and ability to help pay for the project.

ATTACHMENT A

Contents and hearing print page numbers for:

I. Statement summary in Feb. 4, 1984 letter to Sen. Stafford transmitting hearing statement.
II. Hearing statement submitted for record of Jan. 24 & 25, 1984 hearings by Subcommittee.
III. List of attachments to hearing statement plus subheadings for Attachment A.

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Council of
American-Flag Ship Operators
1627 K STREET, N.W., SUITE 1200 • WASHINGTON, D.C. 20006
TELEPHONE: 202-466-5388
TWX: 710-822-1163 "CASO WSH"

May 10, 1985

The Honorable James Abdnor
Chairman
Senate Subcommittee on Water Resources
SD-410
Dirksen Senate Office Building
Washington, D.C. 20510

RE: S. 366 - The Water Resources Development Act of 1985

Dear Chairman Abdnor:

The Council of American-Flag Ship Operators (CASO) represents the majority of U.S.-flag liner companies serving the foreign commerce of the United States. Our member companies own and operate a modern and diversified fleet of break-bulk, barge-carrying, container and roll-on roll-off vessels which carry a wide range of general cargoes. All of these ships are available under various programs for use by the United States during times of military emergency. None of these ships require a channel depth of more than forty-five feet. CASO members and, indeed, all liner operators serving the ports of the United States have been concerned with the subject of whether or not fees should be assessed on vessel operators to finance dredging. For the reasons set forth below, we have steadfastly maintained they should not.

We are, therefore, disturbed that S. 366 would require general cargo harbor localities, that is those with channels not exceeding forty-five feet in depth, to contribute 30% of the cost of channel improvements. S. 366 also provides that deep-draft harbor localities, that is those with channels in excess of forty-five feet, completely fund improvement projects over forty-five feet and pay 50% of the incremental maintenance costs for that portion less than forty-five feet. In order for local ports to recover their share of channel improvement and maintenance costs, S. 366 authorizes ports to collect user fees from vessel operators.

The benefits our water transportation system brings to the nation are multiple and include such things as increased foreign trade, employment, contribution to the gross national product and contribution to our balance of payments. Taken on the whole, the companies which own and operate the vessels on which U.S. goods are transported are a very small part of those who benefit from our water transportation system. We cannot consider the federal government's contribution to this system as a subsidy or an entitlement. We must consider it as the contribution by all of the people for the benefits which all receive.

While it is undoubtedly true that the deepening of certain channels and harbors to depths greater than forty-five feet may be desirable or even necessary (for example, to facilitate the export of U.S. coal) the burden of supporting such projects should not be imposed on those carriers who neither use nor require depths greater than forty-five feet.

We urge that this Committee amend S. 366 to ensure that liner vessels carrying America's foreign and domestic commerce are not burdened with fees for deep-draft channels in excess of forty-five feet which they do not require.

You may hear the argument made that carriers may simply "pass through" these user fees in the form of a surcharge on freight charges to shippers or consignees. This is simply not possible nor, if it were, would it be equitable.

The cost of developing and maintaining different ports will vary considerably. If we assume that each carrier or conference of carriers would and could make its own decision as to whether or not to invoke a user fee based surcharge and if so, of what amount, the first decision to be made is whether or not the surcharge should reflect the actual charge levied at each port. Conferences have traditionally been prohibited by the Federal Maritime Commission from assessing differing charges for individual ports within the same conference range. Independent carriers may do so. However, the independent carriers competing with conference carriers will be affected by what the conference may do and vice versa. Undoubtedly both would, if they could ignore the other forms of competition, such as Minibridge, either strike an average, which would be difficult because port volumes and tonnage vary significantly, or set the charge at the level of the lowest "user fee" port in the conference range. If this was done, the carriers would end up absorbing the difference between low and high user fee ports. In actual practice a carrier's ability to recover user fees would probably be dictated by "Mini-Landbridge" and "Micro Bridge" competition at low cost, gateway ports or through Canadian or Mexican ports.

However, the basic problem is that in most cases the carrier will not be able to recover port user fees. The carriers cannot charge more than shippers can pay. Exporters from the United States generally cannot afford to pay higher shipping charges and still remain competitive in world markets. The problem faced by U.S. exporters, who are of course our customers, is not caused primarily by shipping rates which are a relatively small component of the delivered cost of goods but by a combination of factors including foreign discriminations, low-cost foreign labor, and most particularly today the strength of the dollar. Our exporters marketing overseas must compete with products from Europe, Japan, and often subsidized industries in third world countries. Any additional burden will make them less competitive. If additional burdens such as user fees are placed on our exporters we will only exacerbate a situation which is already placing in jeopardy our merchant marine, our national security and our economy.

Last year, in remarks accompanying an amendment which is the basis for part of S. 366, you stated:

> "Fees which may be imposed by ports to recover their share of project costs may not be imposed on vessels engaged in intraport movements or vessels with design drafts of 14 feet or less. This is to clarify that barges are not to be assessed for deepening ports."

Why then assess fees against any vessels not requiring the deepening of ports?

For all of the above reasons we believe it is eminently reasonable and consistent with sound national policy that the federal government not abandon its traditional role in constructing, operating and maintaining our general cargo navigation system. We strongly oppose those provisions of S. 366 which would do otherwise.

We respectfully request that this letter be made a part of your Committee's record on this legislation.

Yours sincerely,

Albert E. May

Albert E. May
Executive Vice President

AEM/by

cc: All Members of the Water Resources Subcommittee

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

May 2, 1985

THE HONORABLE JAMES ABDNOR, SENATOR
Chairman, Subcommittee on Water Resources
Senate Committee on Environment and Public Works
2321 Hart Senator Office Bldg., -309
Washington, D.C. 20510

Dear Senator Abdnor

SUBCOMMITTEE HEARINGS: S. 366; S. 534
SUPPLEMENTAL TESTIMONY IN SUPPORT
REDBANK-FANCHER CREEKS FLOOD CONTROL PROJECT
FRESNO COUNTY, CALIFORNIA

The Board of Directors of the Fresno Metropolitan Flood Control District appreciates the efforts of the Committee to proceed with the enactment of reasonable water resource authorization legislation. Included within both of the subject bills is the Redbank-Fancher Creeks Flood Control Project of Fresno County California. The Redbank-Fancher Creeks Project has been under preliminary authorization since 1956 and has been before the Congress as house Document 98-147 for approximately one and one-half years.

Detailed project information has been submitted to the Committee to be included in the hearing record. This letter and the enclosed materials represent supplemental information that we would request be included as part of the record.

Enclosed is a partial list of the organizations, interest groups, agencies, and elected state and federal officials who have provided support or assistance to the project. Also enclosed is a summary of the citizens participation process that has involved literally hundreds of members of the local community in the evaluation, planning and implementation of the project. The enclosures also include a summary of the recommendations of the Citizens Project Advisory Committee and the listing of those agencies represented on that Committee.*

In summary, those recommendations are as follows:

1. The need for the project continues to be significant.
2. The project design as formulated in the report of the Chief of Engineers is the correct design relative

---

*Retained in committee files.

to the local conditions and need.

3. The Congress is urged to proceed with authorization and construction of the project at the earliest possible date.

It had been our hope that the project would move from authorization through construction without a single opponent. Unfortunately, we have been disapointed in that objective. One project opponent has appeared. That individual is a landowner who was previously affected by the existing Dry Creek Reservoir and who will be further impacted by the expansion of that reservoir as a part of the subject project. While the District's Board of Directors has extended unlimited offers of assurances to mitigate any possible negative impact associated with the project, the landowner has refused to cooperate and has declared his intent to oppose the project. That opposition effort has begun and, unfortunately, has been replete with misstatements and misrepresentations concerning the project's design and impact.

The project continues to have the full and unconditional support of the Cities of Fresno and Clovis, the County of Fresno, the Fresno Irrigation District, the Fresno Metropolitan Flood Control District, and those agencies and organizations having adopted the resolutions of support for the construction of the subject project. Copies of those resolutions are also enclosed for your consideration.

We appreciate the inclusion of these materials as part of the hearing record. We would further request that any questions which may arise with respect to the project be directed to our District which has been designated as the local project sponsor.

We greatly appreciate the kind consideration and assistance which have been provided by Committee members and staff in the past and look forward to ultimately securing the passage of a final and most necessary water resource authorization measure. If we can be of any assistance to the Committee in these efforts, please feel free to call on us.

Very truly yours

DOUG HARRISON
GENERAL MANAGER-SECRETARY

Enclosures

c: Congressmen Coelho, Lehman, and Pashayan
Senators Cranston and Wilson

GREAT LAKES COMMISSION
ESTABLISHED 1955 BY INTERSTATE COMPACT
INSTITUTE OF SCIENCE AND TECHNOLOGY BLDG
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EXECUTIVE DIRECTOR
JAMES FISH

May 24, 1985

The Honorable James Abdnor
Chairman, Water Resources Subcommittee
Committee on Environment and Public Works
SH-309 Hart Senate Office Building
Washington, D.C. 20515

Dear Senator Abdnor:

Water project financing and cost sharing has concerned the Great Lakes Commission since its creation in 1955. St. Lawrence Seaway tolls, a form of water project cost recovery and the only form of federal navigation project cost recovery from 1959 to 1980, have always been considered onerous by the Great Lakes region.

The Great Lakes Commission has two policy positions regarding funding for water resources development projects--one covering deep-draft navigation projects and one covering non-navigation projects. Although some differences remain among Commission member states on water project cost sharing, the policy positions in Commission resolutions reflect views of most states in the region. There is also Commission acknowledgement that dynamic legislative processes may produce new, related federal policy more congruent with present and evolving Commission policy.

Deep-Draft Navigation

The Commission's deep-draft navigation project funding resolution states:

1) new legislation should retain current 100% federal funding for operations, maintenance and new construction activities in deep-draft ports, harbors and channels 45' or less in depth;

2) a federal study commission be established to comprehensively assess any proposed deep-draft navigation user fees with equal representation from each of the four seacoasts; and

3) the federal study must consider the combined effects of user fees and Seaway tolls.

Although the Commission's deep-draft navigation resolution does not address alternatives to 100% general fund financing, a funding mechanism exists. Customs revenues could provide a funding source that is politically palatable and economically justifiable.

Nearly $10 billion in Customs duties are collected annually. Ports are the major collection points for these duties. Without port infrastructure and private terminal facilities, much overseas trade activity could not take place. A reasonable portion of Customs duties could be diverted to a dedicated trust fund for public deep-draft navigation expenditures. Precedent exists in the "Tax Reform Act of 1984" which established the "Aquatic Resources Fund" (Wallop-Breaux Fund) and incorporates, among other funds, Customs duties on fishing tackle and recreation boats for the purpose of supporting a "Sport Fish Restoration Account."

Pending federal water project legislation proposes changes in the traditional federal funding of deep-draft navigation projects including those on the Great Lakes. Substantial direct cost recovery for Corps of Engineers operations, maintenance and construction activities would unreasonably burden Great Lakes commerce. The bulk commodity shipping and port community on the Great Lakes is virtually unanimous in their opposition to proposed navigation user fees. Part of this opposition can be attributed to experience with the existing user fee (Seaway tolls).

The Commission recognizes navigation user fees are proposed as a means to reduce federal budget expenditures. Additionally, cost recovery systems are presumed to promote development of only economically justified projects. However, numerous questions should be answered before any new system is implemented:

- How would Great Lakes raw materials producing and consuming industries fare compared with overseas competitive suppliers?
- Would increased transportation costs further depress the Great Lakes steel industry?
- What kind of user fee--ad valorem, tonnage charge, site specific or uniform--will be applied?
- Will costs be fully allocated among project beneficiaries?
- What agencies will be required to collect a user fee?
- How will costs for Great Lakes Connecting Channels be handled?

- Will deep-draft user fees change competitive positions of rail vs. Lakes cargo movements, inland rivers vs. Lakes cargo movements, and tidewater port vs. Lakes port cargo movements?

- What combined regional impacts would result from Seaway tolls, proposed Coast Guard user fees and deep-draft user fees?

The Commission's own funded study (Data Resources, Inc. - 1983) suggests difficulties for the steel and agricultural sectors from even modest user charges. A 1983 U.S. Department of Commerce user fee study also indicated problems for the Great Lakes. For example, the Commerce study suggested the Great Lakes port range would suffer the greatest decline in export tonnage compared with the tidewater coasts and would experience a net tonnage decline totalling more than half the national loss.

Non-Navigation Project Cost Sharing

The Great Lakes Commission generally supports non-navigation water project financing proposals as developed and presented by the Interstate Conference on Water Problems (see attached resolution for details including cost recovery percentages). The Commission supports comprehensive reform of the current system of non-navigation water project selection, development and financing.

New initiatives in cost sharing and cost recovery should be predicated on four considerations:

1) non-federal financial participation or repayment levels should depend on project purpose(s) and should be consistent by project purpose throughout federal agencies;

2) repayment terms must address project financing over the project's life;

3) the ease and cost-effectiveness of investment recovery must be a factor in establishing cost sharing rates and repayment arrangements; and

4) states must have a significant role in project selection.

Summary

Water project issues--particularly cost sharing and cost recovery--are national in scope. But consideration of any new policy must achieve and/or maintain regional equity for acceptance. Current proposals have not yet demonstrated this characteristic.

The Great Lakes Commission respectfully requests that this letter and attachments be included in the record for the May 10 and May 16, 1985 hearings on the Water Resources Development Act of 1985 and other water resources development bills.

Sincerely,

James Fish

James Fish
Executive Director

JF:skw

RESOLUTION

FUNDING OF DEEP-DRAFT NAVIGATION SYSTEM CONSTRUCTION, OPERATION AND MAINTENANCE COSTS

WHEREAS, a number of proposals have been made to institute user charges to recover federal expenditures for the operation and maintenance of and improvements to the nation's deep-draft navigation system, which could result in a fundamental shift in the nation's historic approach to federal involvement in water transportation; and

WHEREAS, improved deep-draft ports are essential components of the nation's efforts to increase foreign trade and are vitally important for stimulating the national economy; and

WHEREAS, throughout the 200-year development period of the water transportation system, which now comprises 189 deep-draft ports, the federal government has been responsible for construction, maintenance and operation of the navigation channels and harbors; and

WHEREAS, there is a need to expedite the navigation project development process which can be unreasonably lengthy and unduly burdensome.

NOW, THEREFORE, BE IT RESOLVED by the Great Lakes Commission as follows:

Any water resource development legislation considered by Congress should include the following provisions:

Continuation of 100 percent federal funding for operations and maintenance of deep-draft ports, harbors and channels with a depth of 45 feet or less, including the connecting channels and locks of the Great Lakes and St. Lawrence Seaway.

Continuation of 100 percent federal funding for construction and rehabilitation of deep-draft ports, harbors and channels with a depth of 45 feet or less, including the channels and locks of the Great Lakes and St. Lawrence Seaway.

Implementation of fast-tracking procedures including appropriate economic and environmental analyses to shorten the approval and implementation process for navigation projects.

Prior to consideration by Congress of any law establishing a deep-draft user fee, a federal study commission with equal representation from each of the four seacoasts is to report to Congress on the projected costs to operate, maintain and develop deep-draft ports, harbors and connecting channels and on methods to finance these necessary expenses in a way that will not disrupt waterborne shipments, domestic and foreign trade or the vitality of water-dependent businesses which report shall include an assessment of the combined effect of possible user fees and Seaway tolls.

Recommended for adoption by the Subcommittee on Great Lakes/Seaway and Related Transportation, April 6, 1984

Recommended for adoption, as amended, by the Transportation & Economic Develpoment Committee, May 24, 1984

Adopted by the GREAT LAKES COMMISSION, May 25, 1984

RESOLUTION

FEDERAL WATER PROJECT DEVELOPMENT AND COST SHARING

WHEREAS, the Great Lakes Commission strongly supports the need to comprehensively reform the current system of water resources project selection, financing and development; and

WHEREAS, inclusive in the reform initiative must be the establishment of cost-sharing and cost-recovery policies that are acceptable to non-federal sponsors; and

WHEREAS, the Great Lakes Comission believes that state and substate government entities should have a prinicpal voice in the development of new financing arrangements since they most frequently represent the non-federal participants required to repay project costs; and

WHEREAS, the Great Lakes Commission believes the policy proposals developed by the Interstate Conference on Water Problems represent workable and realistic concepts to guide the development of reasonable and equitable cost-sharing and project development arrangements;

NOW, THEREFORE, BE IT RESOLVED that the Great Lakes Commission supports the five following principles/concepts and related statements as the basis for creating a new water resources development procedure and system for the nation:

1. Federal involvement in major water resources projects of national and federal interest is necessary and must continue.

2. Non-federal participation in water development is only feasible if non-federal participants have access to sufficient funds for study and construction involvement. Most non-federal entities do not have the ability to generate sufficient front-end funds. A mechanism to convert long-term repayment capability to up-front financing is, therefore, necessary in those circumstances where front-end financing may be preferred by the non-federal sponsor.

3. Project costs should be recovered from identifiable beneficiaries of vendible products through user charges, taxation, and the sale of products. Development of cost recovery policies must, however, take due regard of (a) the administrative practicality of imposing and collecting charges from all project beneficiaries, particularly where a project has non-vendible products, and (b) the financial constraints and economic conditions of the identifiable beneficiaries and communities.

4. Cost-sharing policies and arrangements must be applied consistently and equitably for project purposes.

5. Restoration of non-federal flexibility in study and project selection and development will result in an overall reduction in the cost for public water investment and better assure that available resources are used to address priority needs.

The Great Lakes Commission does not support the establishment of revised cost-sharing or financing arrangements by regulation or administrative action. The Great Lakes Commission strongly emphasizes its position that the U.S. Congress is responsible for establishing water develpoment procedures and cost-sharing and cost-recovery policies.

The Great Lakes Commission believes that creation of a new water resources development system must, in order to be fully effective, address:

1. Commitments to authorized, underway, and completed projects,

2. Separate procedures for developing national and state projects,

3. The availability of capital resources to fund public sector investments in water infrastructure, and

4. Levels of non-federal participation.

Existing Projects

The Great Lakes Commission supports the need to adhere to previous or outstanding water resources development commitments. In this regard, cost-sharing agreements must remain in effect. Congressional consideration needs to be given to establishing nationally consistent arrangements when existing projects are reformulated and reauthorized for new or expanded purposes.

National Projects

The Great Lakes Commission recognizes that certain categories of projects are primarily of national interest. However, the Great Lakes Commission believes that formal provisions for state and local input must be provided for as an element of national project study and construction. Project funding must, by the project's very nature, be 100 percent federally financed.

State Projects

The Great Lakes Commission supports the creation of a separate system to select, design, and construct state priority water resource projects. The new procedure must provide for paramount state decision-making and promote approximate levels of federal involvement.

Project Financing

The Great Lakes Commission believes that the principal impediment to the development of water resources necessary to support continued national and state economic development and improvements in the overall quality of life is access to capital resources or capital formation. The Great Lakes Commission does not believe that specific questions relating to appropriate levels of non-federal participation can be addressed until the issue of capital availability is resolved. In this regard, the Great Lakes Commission believes that creation of a national water financing authority holds considerable promise for meeting the states' capital needs.

Non-Federal Participation

The Great Lakes Commission supports initiatives to develop and adopt revised cost-sharing percentages and repayment terms. Congressional action should be predicated on three considerations: (1) participation or repayment levels should depend on the type of project or project's purposes; (2) repayment terms must address project financing over the project's life; and (3) the ease and cost-effectiveness of investment recovery must be a factor in establishing cost-sharing rates and repayment arrangements. The Great Lakes Commission believes that the attached table presents cost-sharing percentages and financing arrangements which are acceptable and realistic, for adoption and implementation in the long-term national interest.

BE IT FURTHER RESOLVED, that the Great Lakes Commission transmit this policy statement to the Great Lakes Congressional delegation, appropriate Congressional Committees, and appropriate federal agencies to assist in the establishment of a fair and equitable water project development and cost-sharing system.

Recommended for adoption by the Natural Resources Management Committee, October 6, 1983
Adopted by the Great Lakes Commission, October 7, 1983

ATTACHMENT TO
RESOLUTION: FEDERAL WATER PROJECT DEVELOPMENT AND COST SHARING

PROJECT PURPOSE	NON-FEDERAL CONSTRUCTION COST-SHARE	PAYMENT TERMS[1]	NON-FEDERAL O & M COST-SHARE
Flood Control	15-25% + interest[2]	Repayment over time with interest or without interest during construction, with lands, easements, and rights-of-way counted toward the non-federal share	15-25% multi-purpose resrvoir 100% local protection projects
Beach Erosion	50% + interest[2] (30% + interest for public facilities protection)	Repayment over time with interest or without interest during construction	100%
Recreation	50% + interest[2]	Repayment over time with interest	100%
Hydropower	100% + interest[2]	Repayment over time with interest	100%
Municipal and Industrial Water Supply	100% + interest[2], subject to the ability to repay	Repayment over time with interest, subject to the ability to repay	100%
Agricultural Water Supply	100% + interest[2], subject to the ability to repay	Repayment over time with interest, subject to the ability to repay	100%

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[1] Repayment time should correspond to project life but should not exceed 50 years.

[2] Interest should be based on the federal long-term obligation borrowing rate at the time the non-federal repayment contract is signed.

INLAND RIVERS PORTS & TERMINALS, INC.
P.O. Box 863 Central Station • (314) 241-7354
St. Louis, Missouri 63188

May 10, 1985

STATEMENT

For Submission to:

U. S. Senate Subcommittee on Water Resources relating to hearings scheculed May 10 and 16, 1985 on Senate Bill 366.

Mr. Chairman, members of the Subcommittee, the following statement is submitted in behalf of the membership of the Inland Rivers Ports and Terminals, Inc., and its many supporters throughout the 25,000 miles of our nation's shallow draft inland waterways system.

IRPT, Inc. is a nationwide non-profit organization composed of port authorities, terminal operators, and related public and private interest deeply concerned over the state of condition of our nation's inland waterways and the towboat industry which serves this vast Mid-America infrastructure.

Our concern is of a more disastrous nature than that of the deep water ports for the shallow draft inland waterway ports and terminals are 100% dependent upon the viability of the towboat industry, whereas the deep water ports represented by the American Association of Port Authorities can turn to rail and truck transport in the event of loss of towboat services via the inland waterway distribution network. We have no such alternative as a last resort to our economic survival.

For this reason, we share and support in every respect the testimony given before this subcommittee by the American Waterway Operators, Inc. and Waterway Transport Association.

The state of the towboat industry resulting from the anti-inland waterway actions by the Administration and Congress over the past eight years coupled with unprecedented balance of trade deficits due to the growing strength of the dollar and result and loss of exports, can be summed up in one word - disastrous.

One has only to take stock of the number of towboat companies sold out or in bankruptcy over the past two or three years and the loss of tonnage throughout the shallow draft inland waterways passing through our ports and terminals.

As AWO has stated, and we concur, any and all additional waterway user tax proposals on the towboat operators will be vigorously opposed.

This association in line with other waterway interest concurred in the imposition of a 4 to 10 cent tax on fuel consumed by the towing industry operating on the shallow draft inland waterways system as a requirement demanded by Congress in turn for the authorization of Lock & Dam 26 on the Mississippi River just North of St. Louis. This action did not and still does not alter the association's position in opposition to any user tolls, taxes, or charges in any form, direct or indirect, upon the shallow draft inland waterways traffic for the principal reason that as part of the agreement to accept the fuel tax is the provision in the Act that after a three year test period a detailed study would be made to determine the justification and further implementation of the user charge porposals. It has been in contemplation of this study that it was felt that the economic folly and inequity of such tax would be clearly exposed provided the study were done without bias or pre-ordained conclusions. IRPT remains strongly opposed to any type of user charge or tax upon the inland waterways system until conclusively justified by a thorough unbiased economic study which included a determination of the impact upon the transportation modes and the infrastructure of the nation including the inland ports and terminals and the local and regional areas they serve. This detailed analysis should include a breakdown which clearly identifies the beneficiaries of the federal outsiders involved.

We are not opposed to the assessment of user charges or taxes provided they are justified and imposed fairly and equitably to all modes and to all clearly identified beneficiaries including the Federal government and national security considerations.

Mr. Chairman, members of the Subcommittee, we most respectfully ask your careful consideration of the matters brought forth in this statement and urge your support in providing our nation with the most efficient transportation system possible thereby enhancing not only the domestic economy but also our competitive edge in world markets.

This opportunity to present our position to you is deeply appreciated.

Carl A. Ranft
Chairman

David Work
President

May 20, 1985

The Honorable Robert T. Stafford
Chairman, Senate Comm. on Environ. and Public Works
410 Dirksen Office Building
Washington, D.C. 20510

Re: Mt. St. Helens -- Toutle River

Dear Senator Stafford:

Thank you for inviting me to submit written testimony to the Senate Subcommittee on Water Resources. Two copies are enclosed of the information which I wish to be entered into the record.

If my paper creates a desire for additional specific or general information, I shall be glad to provide it.

If there should arise an opportunity for me to appear before the Committee to testify on the Mt. St. Helens subject, I shall consider it a privilige to do so.

Sincerely,

Alden H. Jones

Alden H. Jones
130 Jones Road
Kelso, WA 98626
Phone - 206 423 6626

AHJ/dj

Mount St. Helens — Toutle River

This testimony is presented to the Senate Subcommittee on Water Resources for the hearing record in the matter of Mt. St. Helens and the Toutle River in southwest Washington.

Mr. Chairman: My name is Alden H. Jones and my home is in Kelso, Washington. I am writing in opposition to the mud-retaining dam which the Army Corps of Engineers has designated as its preferred plan for construction in the Toutle River valley below Mt. St. Helens in southwest Washington.

My opposition is based on knowledge of the area's topography, soils, water resources and weather patterns which I acquired during 40-plus years of work in the forests around Mt. St. Helens as an engineer and operations manager for a 550,000-acre timber harvesting company. I am now retired and serving as volunteer engineering advisor for the 1,000-member Toutle Valley Preservation Organization which opposes the dam.

We oppose the dam for three reasons:

First, the dam would environmentally destroy six miles of the short, 44-mile Toutle River by burying 4,100 acres of the river valley with mud, entirely downstream from the sixteen miles of the river which were destroyed by the eruption avalanche in 1980;

second, the dam in the valley below the volcano would be a hazard to downstream communities if the mountain should erupt again; and

third, the dam has not been statistically justified, therefore, until it is proven necessary, the required expenditure would appear to be a squandering of public money.

I have made at least one trip per week into the debris avalanche area during the past 2½ years. My original purpose in visiting the area was to gather information for free lance writing. I observed that natural forces were restoring the damaged land but that the evidence of recovery was not regarded as significant by the Corps who had adopted a theory that recovery would be slow and take perhaps 50 years. I accordingly changed my objective from simply recording the unfolding, post-eruption story to an active challenge of the Corps interpretation of what was taking place.

Alden H. Jones

Alden H. Jones
130 Jones Road
Kelso, WA 98626

Volcanic debris which Mt. St. Helens deposited in the Toutle River valley was predicted by authorities to erode in great quantities, move downstream into the Cowlitz and Columbia Rivers and cause catastrophic flooding. It hasn't happened. There is no indication that it will happen, other than a scientific hypothesis that anything is possible.

Corps of Engineers maintains that floods will come and that a dam must be built to stop them. In its Feasibility Report of November, 1984, Corps says, "Material eroding from this avalanche ... is reducing flood protection levels in downstream urban areas ..." But in the same report, the Corps also says, "Dredging is accomplishing the ... (100-year) flood protection authorized by Public Law 98-63 ..."

Dredging is indeed protecting the "downstream urban areas" and this has been easily accomplished. In the three years since the rivers were cleared of the initial surge of eruption debris, dredging has removed an average of only 11.6 millions of cubic yards per year from the combined Toutle, Cowlitz and Columbia Rivers. Fifty millions of cubic yards per year had been predicted.

Corps has made two forecasts of the volume of volcanic debris which they believe will clog the rivers and cause flooding. Comprehensive Plan, in November, 1983, predicted that 300 mcy of debris would erode into the rivers in the six years from 1985 through 1990. One year later, in November, 1984, Corps published its Feasibility Report which changed the six-year forecast of erosion from 300 mcy to 153 mcy.

Although it drastically lowered its 1983 forecast of erosion, Corps was not willing to admit it had goofed. Instead it called the 50% reduction a "refinement" and it boldly stated in Feasibility Report, on Page II-6, that, "Sediment yields from the debris avalanche are expected to remain high throughout the 50-year life of the project." Feasibility Report then quickly contradicted itsself by displaying a graph to illustrate how the annual erosion would drop steeply from 28 mcy in 1985 to 13 mcy in year 2000 and thereafter at a lesser rate.

Corps is almost certainly using a flawed system of calculating sediment forecasts for the rivers. But, with considerable self-assurance the agency has broken down its forecast of 28 mcy for Water Year 1985 to show the sources of various parts of the total yield. Several items are lacking in reasonableness. Perhaps the most glaring example of over-estimation is the forecast of 5 mcy to erode from the Castle Creek area. If Corps had been paying attention to what is going on, it would know that Castle Creek has been discharging clear water for more than two years.

Public Law 98-63 assigns to the Corps, the responsibility for maintaining flood protection along the rivers downstream from Mt. St. Helens and this has been accomplished by periodic dredging of the channels. A superior job has been done in fulfilling this responsibility, but the Corps has shown little interest in dredging as a permanent solution for the sedimentation problem. Critical judgment has been applied against dredging as an alternative. Apparently the Corps would prefer to build a dam.

Fears generated by the cataclysmic eruption of Mt. St. Helens have been prolonged by the Corps' unrealistic, worst-case disregard of the amazing recovery and healing of the land. Corps, when its attention has been called to the restoration of hillslope vegetation, to the reestablishment of the drainage network of creeks and rivers, to the clearing of the waters and to the steady decline of erosion from the avalanche has invariably come forward with unverifiable explanations.

When dredges couldn't find enough sediment in the Toutle to keep themselves busy last February, the Corps explained that it was due to mild weather which had prevailed since the eruption and had curtailed the erosion. The fact is, however, that weather has not been mild since the eruption. Rainfall has been above normal and has increased each year from 1980 through 1984. Rainfall during calendar year 1984 was 130.33 inches, the highest one-year total ever recorded at Spirit Lake. If that couldn't produce even a mini-flood, maybe the Corps has overlooked something.

Causes of the decline are obvious:

the easily erodable material floating on top of the avalanche is long gone. It washed away during the first two winters;

the feared liquefaction of the avalanche never materialized;

the avalanche contained more rocky material than was at first realized and has achieved increasing stabilization during the passing of time;

rapid runoff of the heavy rainfall on the barren, unforested avalanche has hastened the stabilization and compaction process;

Toutle River and its tributary creeks have cut their channels into the avalanche and have confined the erosion to these narrow corridors;

river and creeks have achieved an advanced state of streambed armoring by lining their channels with cobbles and boulders from the avalanche;

revegetation of the hillslopes has virtually eliminated the washing of ash and silt from upland areas; and

recent opening of the tunnel outlet for Spirit Lake has diverted the water into South Coldwater Creek, a narrow, V-shaped canyon and has abandoned six miles of the old river channel which was bedded on top of the debris avalanche.

These are the principal factors which have influenced the decline of erosion from the avalanche. There is no mystery about what happened; it was predictable. The avalanche simply hasn't cooperated with the worst-case predictions. Most of the early, post-eruption sources of river sediment have reduced or cancelled their delivery schedules. It is incomprehensible that Corps of Engineers now considers these happenings as temporary departures from the normal chain of events and that things will eventually get back to normal and we will have floods — unless money is provided for a dam.

Corps, as the agency responsible for flood protection along the rivers, was correct in playing safe in the beginning and adopting a worst-case philosophy. However, more of the answers are known now and the answers tell us that the sediment problem in the Toutle River is not as it has been described and that the implementation of a solution would be premature and unwise until the problem has been realistically evaluated.

Funds for a professional study of the sedimentation problem on the Toutle River should be provided; but authorization for an environmentally destructive dam should be withheld pending proof that the proposed dam can be statistically justified.

Thank you.

Alden H. Jones
5-20-85

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LAKE CARRIERS' ASSOCIATION
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May 16, 1985

The Honorable James Abdnor
Chairman
Subcommittee on Water Resources
410 Dirksen Building
Washington, D. C. 20510

Dear Senator Abdnor:

We have been advised that the Senate Subcommittee on Water Resources held hearings on May 10 and 16 to review S. 366, the Water Resource Redevelopment Act of 1985, and companion measures proposed by the Administration - S. 534 and S. 967. Please accept this letter as Lake Carriers' Association's testimony for the hearing record.

I am writing to provide arguments as to why the Administration's bills should be rejected outright. Port User Charges would economically harm the nation, the Midwest and, specifically, the industries in each of the eight Great Lakes states. At the same time, I would like to indicate qualified support for S. 366 since it would not impose Port User Charges on general cargo ports.

Lake Carriers' Association represents 15 U.S.-flag Great Lakes fleets. The 15 member fleets have a combined total of 98 vessels with a per-trip capacity of 2,414,827 gross tons of bulk cargo. These vessels comprise more than 95 percent of the tonnage of U.S. Great Lakes vessels and approximately 33 percent of all U.S. self-propelled vessels of 1,000 gross registered tons or larger engaged in the domestic trade.

While our membership is composed of ship owners and operators, our views are formed through consultation with the customers we serve. We recognize that our business is dependent upon the low-cost transport of bulk raw materials. If the Administration's plans for a 70 to 100 percent level of recovery of port operation and maintenance dredging costs becomes effective, our customers will not be able to compete in many trades. Employment in the Lakes shipping industry will decline in proportion to the decline of employment in mining, farming, and steelmaking.

The Administration has many basic misconceptions concerning the role ports play in our national economy. Our nation's industry invests billions of dollars each year in the water transportation system. This involves dredging private harbors and docks, the construction and maintenance of docks, wharves, transfer sheds and elevators, as well as the ships, tugs, and barges. Local and state governments invest in the infrastructure, such as access roads to ports, port authorities, and trade development offices. The federal government, through taxpayer revenue, assists in the dredging and maintenance of the channels which connect our cities and states to each other and to the world. The FY85 investment is $397 million. Annual dredging in the Great Lakes (exclusive of the inland waterways) costs approximately $82 million. A breakdown of this cost by state follows: Illinois - $4 million; Indiana - $1.7 million; Michigan - $45.9 million; Minnesota - $2.9 million; New York - $5.1 million; Ohio - $15.4 million; Pennsylvania - $600,000; and Wisconsin - $6.2 million. (See attached table.) The Administration proposes that local government pay from 70 to 100 percent of the dredging costs through collection of User Charges from local industries. This proposal must be defeated because of the harm it will do to the Great Lakes states' basic industries and farming and thus employment.

The database for the Administration's User Charge proposal is the reported tonnage of cargo carried throughout the navigation system. In 1981, U.S. Army Corps of Engineers reported that 1.8 billion tons of cargo was moved. Considering that O&M costs in FY85 are projected to be $397 million, the Corps calculates the O&M cost per ton to be $0.237. Unfortunately, these numbers are not as simple and straight-forward as they appear.

Most of the tonnage to be charged has been moved between United States ports and is often transshipped from a large ship to a small ship. Each move is counted as new tonnage. The tonnage also moves through the Soo Locks, the St. Marys, St. Clair, and Detroit Rivers, and is again counted at each segment. In the Great Lakes trade, a ton of iron ore moving from Lake Superior to Lorain, Ohio, for transshipment to LTV Steel in Cleveland, Ohio, is counted seven times. Coal cargos moved from Lake Erie to Port Washington, Wisconsin, for transshipment to Milwaukee, Wisconsin, are counted six times. Coal moved from Illinois to Green Bay, Wisconsin, is counted three times if it transits the Sturgeon Bay Canal. The point is that User Charges cannot be passed off as minimal just because they would be $0.09 per ton in Indiana Harbor or even at the maximum of $0.29 per ton in large volume ports such as Cleveland. Each ton of cargo will be taxed several times. Furthermore, many of the ports where coal, sand, gravel, and salt are handled, the cost per ton is high - such as in Sheboygan, Wisconsin, at $6.32, or Charlevoix, Michigan, at $5.62. These cargos cannot absorb the single tax let alone the multiple User Charge taxes. All the more reason for the federal government to retain its historic responsibility for maintenance of the existing deep-water port and channel infrastructue.

The negative impact of the Administration's User Charge proposals will be disproportionate throughout the nation and within the Great Lakes region. All ports were not created equal. Port cities were founded on lakefronts and up narrow rivers which suffer from different levels of annual silting after run-off when the ice melts. Nonetheless, industries were established in many Midwest port cities because of the waterside location which was dredged annually by the federal government. Together, all of the ports, large and small, up long rivers or on the lakefront, form a network of benefit well beyond the port city. The Administration's punitive User Charge proposals will break-up this network and cause industry dislocation and new unemployment in many small port cities. Examples of some of the negative impacts by Great Lakes state follow. A similar analysis should be done for every state in the nation.

ILLINOIS

The State of Illinois justly boasts of the Port of Chicago. It is a large port which serves the river, lake, and ocean trades. Because of this tonnage, most of the port would pay User Charges of $0.14 per ton (national average would be $0.24 per ton) if the Administration bill were enacted. The port would have to collect $1.8 million per year from shippers to pay the U.S. Army Corps of Engineers to dredge the Calumet River and Harbor. Unfortunately, Chicago Harbor and the Chicago River would probably be priced out of business since the Port of Chicago would have to charge at least $4.94 per ton (at 70 percent User Charges) to every shipper using the Chicago Harbor and River - that is unless the City of Chicago, Cook County, or the State of Illinois paid the federal government the $1.7 million needed annually to perform the dredging.

INDIANA

The Great Lakes ports of Indiana include Burns Waterway, Indiana Harbor, Gary, and Buffington. All of these Indiana ports are large, viable commercial ports which predominately serve the steel and other industries in the domestic movement of iron ore, limestone, and coke. Significant movements of gasoline, distillate fuel oil, residual fuel oil, and fertilizers are also made through Indiana ports for delivery to farmers, utilities, and many industries. All of these Indiana industries will pay significantly more for shipment and receipt of basic raw materials - thus reducing their competitiveness nationally and in the world market.

While it may appear that the two public ports of Burns Harbor and Indiana Harbor would charge a low fee per ton ($0.03 and $0.09, respectively), due to the large volume of tonnage handled, this is only the tip of the iceberg. The shippers of iron ore and limestone would pay additional User Charges at the port of loading and again when the cargo transits the Soo Locks and St. Marys River. The shippers of gasoline and fuel oils would pay User Charges in Illinois and other Indiana ports, as well as the inland waterway charges if it came up the rivers. These cumulative User Charges are like value added taxes which can only further depress our Midwest economy.

MICHIGAN

The lakewise movement of freight to and from Michigan ports far exceeds freight movements in foreign trade, including Canadian trade. Most of this cargo is bulk cargo to meet the needs of manufacturers, mills, and power plants in Michigan. User Charges will increase the costs of operations significantly. Many ports will lose traffic and will be unable to have the harbor dredged unless the state or local government provides grants to pay the U.S. Army Corps of Engineers to dredge.

Under the Administration's port User Charge proposal, small ports handling less than one million tons of cargo would be required to pay 70 percent of the cost of dredging. In 1981 (base year for User Charge calculations), there were 38 Great Lakes ports which handled less than one million tons of cargo. Seventeen of these 38 ports are in the State of Michigan. The Michigan ports of Ontonogon, Pentwater, Black River, White Lake, South Haven, Manistique, and Portage Lake handled no commercial cargo in 1981; however, they were dredged by the U.S. Army Corps of Engineers for a total cost of $1,372,000. It would appear from the Administration's proposal that this expense would have to be borne by local government if the ports are to be dredged.

Many of the other Michigan ports are high-cost, per-ton dredging ports because of the serious decline in tonnages handled and because of their location on or at the mouth of a river which deposits silt in the channel. Most of these ports handle low-value cargo, such as coal, salt, slag, sand, gravel, rock, etc. These cargos cannot absorb User Charges. These cargos will either be transferred to high-volume ports or will not be moved at all. In particular, it is predictable that coal moving through Charlevoix cannot absorb $5.62/ton; the coal, limestone, sand, gravel, and slag moving through Grand Haven cannot absorb $4.13/ton; the coal moving through Harbor Beach cannot absorb $1.72/ton; the coal, limestone, and slag moving through Holland Harbor cannot absorb $4.80/ton. The coal, limestone, and coke moving through Manistee cannot absorb $1.88/ton; the limestone, cement, and slag moving through St. Joseph Harbor cannot absorb $1.94/ton. These cost figures are the 1985 O&M expenses for dredging these ports.

Although the Administration seeks to charge 70 percent of these amounts at this time, it is prudent to anticipate that this new tax will ultimately reach 100 percent. In short, the 13 Michigan ports listed in the above two paragraphs would rapidly go out of business as commercial ports. The ports of Saginaw, Frankfort, and Ludington, which handled over one million tons in 1981, could soon follow suit and also go out of business as trade fell below that cut-off, thus being required to assess higher charges.

MINNESOTA

The twin port of Duluth-Superior Harbor costs $2.7 million to dredge annually and because of the high volume of iron ore, coal, and grains moving through this port, the average cost per ton is $0.07. At Two Harbors

MINNESOTA - Continued

the dredging cost in 1985 is $65,000 at an average cost of $0.01 per ton. The port of Grand Marias handled no commercial cargo in 1981 and thus the annual dredging costs of $130,000 would have to be paid by the residents of Grand Marias if the city is to retain a port. While the per-ton costs may not appear to be significant to some observers, the single Minnesota port charge must not be looked at in isolation. It is the cumulative port charges which will be applied by the time the iron ore reaches the steel mills which must cause alarm. As is noted for the other states, the Administration proposes charges all along the way. The cost of Minnesota iron ore will increase by the level of User Charges all along the route to the steel mills in Indiana, Illinois, Michigan, Ohio, and Pennsylvania. These costs will vary from $0.22 per ton to $0.95 per ton at 100 percent cost-recovery according to the trade route. Congess must address the question, "Will these added taxes close more mines in Minnesota and force the steel companies to purchase Brazilian ore?"

NEW YORK

The Administration's User Charge proposal would require the people living near Cape Vincent, Dunkirk, Great Sodus Bay, and Little Sodus Bay, to pay 70 percent of the cost to dredge these harbors, since there has been no commercial traffic in recent years. The annual cost of dredging Cape Vincent is $328,000 and $150,000 for Dunkirk.

Other New York State ports on the Great Lakes would also be required to bear extremely high maintenance dredging costs. These costs would surely drive them out of business as commercial harbors. The Administration's bill would require ports which handle less than 1 million tons of cargo per year to pay 70 percent of the dredging cost. In New York that would affect Black Rock Canal (Tonawanda) ($1,432,000); Rochester ($1,177,000); and Ogdensburg ($23,000). The Black Rock Canal handles mostly coal and petroleum products. At 100 percent cost-recovery and given the present tonnage figures, the cost for dredging would average out to $3.60 per ton. The Port of Rochester handles building cement; at 100 percent cost-recovery and based on current cargos, that would add $5.92 per ton to building cement buyers in Upstate New York.

OHIO

Ohio developed into an industrial giant because of the state's lakefronts and rivers. Without the waterfront, Minnesota iron ore and Ohio coal could never have joined together to produce steel centers like Cleveland, Lorain, Middletown, Canton, and the Mahoning Valley. From April to December, the Ohio rivers on the North Coast are alive with deep-draft vessels carrying iron ore and limestone for steel mills. Other industries flocked to northern Ohio because of economic water-borne transportation of raw materials.

OHIO - Continued

Construction, cement, and chemical industries located their bulk storage piles of limestone, sand, aggregate, and cement silos along rivers in Ashtabula, Cleveland, Conneaut, Fairport, Huron, Lorain, Sandusky, and Toledo. All these rivers and the connecting channels require annual dredging by the U.S. Army Corps of Engineers if local industries are to enjoy the benefits of efficient water-borne transportation and provide employment for tens of thousands of Ohioans.

The Administration's navigation User Charge proposals would require local port authorities to pay the cost of dredging and would force them to collect User Charges from the shipowners. Ohio industry would see its raw material costs skyrocket while the federal deficit would decrease by perhaps 1/100th of one percent. For example, the iron ore and limestone shipped to LTV Steel in Cleveland; U.S. Steel in Lorain; and Armco Steel in Middletown, as well as the remaining steel mills in the Mahoning Valley will have at least three added charges to each commodity. The steel industry will not be able to absorb these additional costs. Additional cutbacks and further unemployment will surely result if the Administration's User Charge proposal is accepted.

Much of the coal shipped from Ohio ports must go through connecting channels before being discharged in another port, so there will be three User Charges incurred per coal cargo: one for the loading port, one for the unloading port, and one for the connecting channels. With the abundance of Western coal reserves, these added costs could well add to the woes of Ohio's already-recessed coal mining industry.

PENNSYLVANIA

The Administration's User Charge proposal would require the Erie-Western Pennsylvania Port Authority to either pay 70 percent of the $603,000 annual dredging cost or collect it from the shippers who use the port. At 1981 tonnage levels that equates to $0.96 per ton to dredge. Intially with a 70 percent User Charge, $0.67 per ton would be charged; then as tonnage declined and the cost-recovery approached 100 percent, the cost per ton would be increased.

Approximately 75 percent of the cargo moving through Erie is limestone, sand, gravel, and rock. These commodities will be driven from waterborne commerce if User Charges of this magnitude are placed on cargo. Should this occur, the remaining cargos (scrap steel, coal, and manufactured goods) would incur a higher cost-recovery per ton charge, which could easily escalate to $3.00 or more. At that point, either the taxpayer of Erie County would have to pay for the dredging or the proud port, which Perry made famous when he crossed the bar in 1813, would be forced to close.

WISCONSIN

The ports of Wisconsin (excluding Superior) are among the highest-cost ports in the United States to dredge. Based on 1981 tonnage and 1985 costs, the average cost per-ton for operation and maintenance dredging is $0.24/ton. The average cost for Wisconsin ports is $0.76/ton. The three major ports - Green Bay, Kewaunee Harbor and Milwaukee - handled 76 percent of the 1981 tonnage (excluding Superior). Since these ports handle in excess of one million tons per year, the Administration would place a User Charge ceiling of 1.25 times the national average. These three ports would collect approximately $0.30/ton from shippers using the ports to pay the User Charge.

Unfortunately, many of the smaller ports of Wisconsin would be gradually priced out of business, since initially they would have to collect 70 percent of their maintenance dredging per port. Given the nature of tax collection, this charge would ultimately reach 100 percent plus the overhead cost of the tax collection. The following are the O&M costs per ton for the small Wisconsin ports: Ashland Harbor, $0.60/ton; Kenosha Harbor, $1.86/ton; Manitowoc Harbor, $0.79/ton; Port Washington Harbor, $0.32/ton; Racine Harbor, $3.54/ton; Sheboygan Harbor, $6.33/ton; Sturgeon Bay and Lake Michigan Ship Canal, $3.03/ton; Two Rivers Harbor, $69.97/ton.

At the port User Charge levels demanded by the Administration, Wisconsin consumers would pay significantly higher prices for electric power generated by coal delivered by ship to Ashland, Green Bay, Kewaunee, Manitowoc, Milwaukee, Port Washington, Sheboygan, and Sturgeon Bay; for building cement currently delivered by ship to Green Bay, Kewaunee, Manitowoc, Milwaukee, and Sturgeon Bay; for heating oil and gasoline delivered by ship to Kewaunee, Milwaukee, Port Washington, Racine, and Sheboygan. Farmers using Two Rivers Harbor to receive chemical fertilizers will have to find another receiving port rather than pay $69.00/ton to use the port. Shippers of coal, slag, fuel oil, and chemicals through Sheboygan will also have to find other routes for their products rather than pay over $6.00/ton to use the Port of Sheboygan. The paper, pulp and newsprint industry in the Northeast will have higher costs of operations, thus making it difficult to compete. The shipbuilding and ship repair industry, which depends upon the Lake Michigan Ship Canal, is dependent upon the commerce of many small Wisconsin ports to support the dredging maintenance of that canal. If that trade falters, one must ask if the Wisconsin shipbuilding industry will loose a major channel which brings business to them.

As the User Charges are applied to each port, the shipper will attempt to reduce costs by finding lower-cost alternatives. Some cargo will be shipped to other ports while other cargo will be shifted to trucks and rail. Some cargo will be priced out of the Great Lakes marketplace - a loss of jobs and taxes as well as port tonnage. The remaining cargo moving through each of the ports will then have to pay the entire charge of dredging. In the usual cost spiral, as the charge goes up less cargo will be shipped;

WISCONSIN - Continued

then the charge goes up again, etc. States bordering the Great Lakes will lose several small commercial ports in a short period of time since they will not be able to collect sufficient User Charges to dredge the port.

The local industries which depend upon low-cost water transportation of bulk raw materials will suffer losses; some will either go out of business or relocate.

* * *

The Administration has proposed many cuts in federal programs for state and local governments. Many states, countries, and cities have had to increase local taxes to make up for these needed programs. The Administration's attempt to require the collection of User Charges for ports is another transfer of federal responsibility to local government. Since many of the cities are dependent upon the ports for employment and industry, the local government will do all within their power to keep their ports viable. It is to be expected that some cities may have to use local taxes to dredge the harbors rather than chase away industries which would be unable to pay the exorbitant charges suggested by the Administration. Port cities may have to compete with each other by offering local tax-supported subsidies to avoid loss of tonnage to a nearby port.

The United States must include the federal maintenance of harbors as an important part of our industrial policy. There are too many policy makers who have been influenced by the futurists of the Third Wave school and are willing to give up the heavy industrial sector to the lower-cost developing countries. If our nation joins that "post-industrial society" of high-tech and service industries, the United States will be destined to give up world leadership since it will not have the industrial capacity to defend itself, let alone take necessary offensive actions. Our industrial base is built upon a water transportation infrastructure spread throughout our country. It must be retained through a positive federal government policy of direct support for the operation and maintenance of the waterways.

We ask you to oppose port User Charges for operations and maintenance dredging of all ports on the Great Lakes. In particular, we ask you to oppose the Administration's bill - S. 534.

Sincerely yours,

George J. Ryan

George J. Ryan
President

ANALYSIS OF ADMINISTRATION'S PORT USER CHARGE PROPOSAL
COST OF ANNUAL DREDGING IN THE GREAT LAKES
(Exclusive of Inland Waterways)

STATE	1985 O&M COSTS (000's)	1981 TONNAGE (000's)	O&M COST PER TON
Illinois (Includes Indiana Portion of Calumet Harbor)	$ 4,002.5	13,155.0	$0.304
Indiana	1,715.0	22,588.2	0.076
Michigan* (Includes Menominee, Wisconsin)	46,869.6	290,078.5	0.162
Minnesota (Includes Superior, Wisconsin)	2,864.2	50,757.4	0.056
New York (Great Lakes Ports Only)	5,053.4	7,466.1	0.677
Ohio	15,418.7	86,019.7	0.179
Pennsylvania (Great Lakes Ports Only)	603.4	626.8	0.963
Wisconsin	6,217.9	8,195.8	0.759
Total - Great Lakes	$ 82,744.7	478,887.3**	$0.173
Total - National	$397,122.3	1,768,179**	$0.237
Great Lakes Percentage	21%	27%	
* Michigan			
Through Detroit River	$ 9,619.9	82,171.6	$0.117
Through St. Clair River	1,785.9	82,377.3	$0.022
Through St. Marys River	9,772.7	74,793.2	$0.131
Total	$ 21,178.5	239,342.1	
Other Ports	25,691.1	50,736.4	
Total	$ 46,869.6	290,078.5	

** These totals include tonnage which has been counted several times, e.g., the same tonnage moved from a Minnesota port to an Ohio port has been counted five times (load, 3 rivers, unload). Totals do not include tonnage moved through privately owned and maintained ports (e.g., Ohio - Marblehead; Michigan - Alabaster, Port Gypsum, Stoneport, Calcite, Port Dolomite, Drummond Island, Petosky, Escanaba, Port Inland; Minnesota - Silver Bay, Taconite Harbor; Indiana - Gary, Buffington; Wisconsin - Oak Creek Harbor

SOURCE: U.S. Army Corps of Engineers, Tables Prepared for Deep-Draft Port Costs for Cost-Recovery Legislation, February 1985

FLOOD CONTROL BANK STABILIZATION DRAINAGE NAVIGATION

April 30, 1985

Senator James Abdnor, Chairman
Subcommittee on Water Resources
312 Senate Dirksen Office Building
Washington, D.C. 20510

Dear Senator Abdnor:

As Chairman of the Executive Committee of the Lower Mississippi Valley Flood Control Association I am speaking for all the Members of this Association when I state to you our opposition to the passage of Senate Bills S. 366 and S. 534.

The Lower Mississippi Valley Flood Control Association is composed almost entirely of public bodies having local responsibilities in the parts of Illinois, Kentucky, Missouri, Tennessee, Arkansas, Mississippi and Louisiana involved for prosecuting flood control, bank stabilization, drainage, navigation and related improvements. Our members are public officials who for the most part are elected by the people. Our Association is composed of levee boards, drainage districts, port commissions, state agencies, municipalities and other organizations engaged in water resources development and for the past 50 years we have provided the means for all the people of the Lower Mississippi Valley to speak and act jointly on these matters.

The Congress of the United States addressed the question of national responsibility for flood control in the Lower Mississippi Valley many years ago and on May 15, 1928 passed the Flood Control Act of 1928 which clearly places flood control under Federal direction and expense. That Federal responsibility has not changed and to change the policy at this time will surely have a devastating impact in the Valley. The Non-Federal funds that would be required under the provisions of S. 366 and S. 534 to protect this Valley from flood waters draining over 41% of the Nation are not available.

It is regretted that we will not be allowed to present oral testimony before your Subcommittee but we do strongly request that this written opposition from the Non-Federal interests of the Lower Mississippi Valley be made a part of the record.

Your vote against these bills is requested in order that continued protection to the Valley and the Nation not be jeopardized.

Thank you for your consideration.

Sincerely,

T.M. Simmons
Chairman, Executive Committee

ST. LOUIS HARBOR, MISSOURI AND ILLINOIS

Testimony of Leon E. McKinney, McKinney Associates

I am Leon McKinney, McKinney Associates, representing the Bi-State Development Agency. I appreciate the opportunity to speak in support of the St. Louis Harbor Report, Missouri and Illinois, on behalf of Bi-State, an agency chartered by the Congress. Among Bi-State's areas of interest is that of sound port and inland waterways development in the St. Louis metropolitan area. I am also representing the Port Authority of the City of St. Louis and the Tri-City Region Port District of Granite City, Illinois, both of whom are the local sponsors for the recommended improvements.

The Bi-State Development Agency is an interstate compact agency, similar to the New York and New Jersey Port Authority, with jurisdiction throughout the entire St. Louis region. It is involved in a variety of public works, transportation, and development activities in the St. Louis metropolitan area. Bi-State serves as the regional port coordinator and created, in conjunction with others, and chairs the Port of Metropolitan St. Louis Advisory Council.

This council consists of public agencies, including all the active port districts/authorities, and private industry from both Missouri and Illinois within the region. It is concerned with the promotion and development of our metropolitan port to increase jobs and improve the tax base of our region.

As background, the Port of Metropolitan St. Louis is the largest inland port in the Midwest and handles approximately 22 million tons of cargo annually. The dominant commodities moved through our port are primarily bulk commodities such as grain, coal, petroleum, chemicals, iron and steel. The Port of Metropolitan St. Louis handles cargo valued at over $5 billion on an annual basis.

A study conducted a few years ago estimated that approximately 2,100 people are directly employed in port and terminal activities within the metropolitan port. More importantly, this study estimated that approximately 43,000 manufacturing jobs within the region were indirectly related to or relied upon the Port of Metropolitan St. Louis.

It should be emphasized that our metropolitan port does not serve just our immediate region. It keeps many industries throughout the Midwest competitive in the national and international markets.

Needless to say, the Port of Metropolitan St. Louis is important not only to the St. Louis area economy, but the entire Midwest and the Nation. The Port of Metropolitan St. Louis is located in a major metropolitan area with highly developed rail, highway and airport facilities, skilled labor resources and substantial agriculture and chemical industries. We need, however, parallel development of inland waterway resources to match the other modes.

As recognized by the Corps of Engineers and many other study groups, the Port of Metropolitan St. Louis has tremendous, yet unrealized, growth potential. Tonnage handled could double or triple by the year 2000. We view these projects in both Missouri and Illinois as the twin keys to unlock this growth. This recommended plan will build upon and enhance key aspects of the port important to our Nation.

First, the region's excellent intermodal transportation base, which is one of the best in the Nation; second, the locational advantages of this region; third, the transportation cost savings to shippers and consumers throughout the Midwest and the Nation; and fourth, the export competitiveness of U.S. commodities moving to the world market, such as grain and coal.

Besides these national benefits, without question, the recommended projects will stimulate the regional economy through increased jobs and economic activity. It is estimated that both projects will create 565 man-years of direct construction jobs and 1,712 man-years of indirect construction jobs.

The annual operation and maintenance of the projects will create 276 man-years of permanent work in the area, with 568 secondary man-years of permanent employment.

The industrial and port related activity which will accompany these projects will add even more significantly to these employment figures. I should also add that there are areas within the St. Louis metropolitan region with a current unemployment rate as high as 20 percent. These projects would certainly help alleviate some of this economic ill.

It is our hope, Mr. Chairman and members of this subcommittee, that you will favorably consider this important inland waterway project and include it in your forthcoming omnibus bill on water resources projects. We believe the project is economically sound, and equally important; it is strongly supported by the entire metropolitan area and the two States of Missouri and Illinois.

The report of the Corps of Engineers, as modified by the House of Representatives in HR 6, pending now in the House, will contribute significantly toward solving two major problems hindering port development in the St. Louis area. These problems are harbor sedimentation resulting in low water problems and lack of readily developable port sites.

The basic recommendations in the Corps Report are to construct an "L" dike or similar structure to provide reliable water transport access to the St. Louis Municipal Dock. I might add, considerable amounts of city and state funds are being spent to improve this facility. Then, in Illinois, an area would be widened, 210 feet across and 6900 feet wide, to provide water access to industrially zoned land. While the Corps initially recommended the Illinois work be done in two phases, their later economic studies indicate the desirability of doing the entire work in one phase. Mr. Chairman, I thank you and ask for your support.

:ama

LOCK & DAM 26 (REPLACEMENT) HYDROPOWER, ILLINOIS & MISSOURI

Testimony

Of

Leon E. McKinney, McKinney Associates

I am Leon E. McKinney, of McKinney Associates, representing myself and Missouri Joint Municipal Electric Utility Commission (MEUC). Mister Chairman, I appreciate the opportunity to speak in support of authorization by the Congress of a Hydropower Facility at Lock & Dam 26(R), substantially in accordance with the report of the Board of Engineers for Rivers and Harbors, dated 8 August, 1983.

MEUC is a municipal organization composed of 41 municipal electric cities throughout the State of Missouri. The Commission was organized in January 1980 after passage of a Constitutional Amendment approved by a statewide referendum in November 1978, and the passage of enabling legislation in December 1978. It is a joint action agency formed to provide member cities an opportunity to join together in the construction of, or contracting for, power supply and transmission facilities necessary to provide the consumer owner, reliable low cost electric power.

The Senate has indicated its appreciation of the need for and advantages of the Hydropower, an environmentally desirable and renewable form of energy, by inclusion S.366 other important Hydro facilities at Corps navigation facilities. The proposed project at L&D 26(R) would consist of a powerhouse in the Headgate Section of the new Dam. It would also have generating facilities with an effective, installed capacity of 114 Mega Watts. Energy savings from the project would equal 1,300,000 barrels of oil each year and provide electricity to 50,000 households.

Finally, the MEUC stands ready to negotiate agreements with the Corps of Engineers, whereby it would market the power and guarantee, up front, 100% pay back, with prescribed interest, in accordance with current law as stated in S.366.

Thank you Mister Chairman.

NATIONAL ASSOCIATION OF STATE AGENCIES for SURPLUS PROPERTY

PRESIDENT
George V. Afflerbach
West Virginia State Agency
For Surplus Property
2700 Charles Ave
Dunbar, WV 25064

VICE PRESIDENT
[illegible]
Federal Property Agency
[illegible]
[illegible]

SECRETARY - TREASURER
E. Rash Gordin
Missouri Agency
For Surplus Property
P.O. Drawer 1310
Jefferson City, MO 65102

May 10, 1985

Honorable James Abdnor
Chairman
Subcommittee on Water Resources
410 Dirksen Building
Washington, D.C. 20510

Dear Senator Abdnor:

It is respectfully requested that the enclosed comments be accepted for inclusion in the record of hearings on SB 534.

It would be most happy to provide any additional information concerning this subject which you may need. Please do not hesitate to call on me.

Sincerely,

George V Afflerbach

GEORGE V. AFFLERBACH
NASASP President

Enclosure

May 10, 1985

Statement submitted for the record on SB 534 by the National Association of State Agencies for Surplus Property

Mr. Chairman, distinguished members and honored guests, the National Association of State Agencies for Surplus Property (NASASP) is an organization made up of all States and territories which administer the provisions of the Federal Property and Administrative Services Act of 1949, as amended, which provides for donation of Federal surplus property to State organizations and institutions. The State agencies which make up the NASASP serve county and municipal governments, volunteer fire departments, and rescue squads, health and educational organizations as diversified as child care centers and nursing homes to universities and hospitals.

We are here today to register opposition to section 511 of SB 534 as it is currently written.

Section 511 of Senate Bill S. 534 allows the Army Corps of Engineers to by-pass all Federal excess and State surplus screening including the Department of Defense on all dredging and related equipment. It further provides that the Corps may retain proceeds from such disposal actions. There is no need for section 511 of this bill. Legislation already exists that provides for disposal of Federal excess/surplus personal property including dredges and related equipment. The legislation also provides for oversight by the General Accounting Office (GAO) and the General Services Administration (GSA).

Currently, sections 202 and 203 of the Federal Property and Administrative Services Act of 1949, as amended, (Property Act) provide a mechanism by which the Corps shall dispose of such equipment. Under current procedures, the Department of Defense (DOD) requirements are reviewed prior to the release of property to the General Services Administration (GSA) by the Corps. The Property Act requires that excess personal property be made available through GSA to other Federal agencies for their utilization. If there are no Federal requirements, the excess property is determined surplus and made available for donation to the States or sale to the public. Therefore, all Federal and State requirements are considered before the Corps is authorized to dispose of such property.

Public Law (P.L.) 94-519, which created the current system for utilization and donation of excess and surplus property contained in sections 202 and 203(j) of the Property Act, was intended to replace several competing property distribution programs with one system administered by GSA. Enactment of section 511 of S. 534, which will create a separate distribution system for equipment, would be a return to the prior inequitable and inefficient distribution of Federal property. Enclosed for review is an October 2, 1978, letter from Paul Riley, Deputy Assistant Secretary of Defense (Supply, Maintenance, and Services) reaffirming that the Corps of Engineers shall be subject to the Federal Property Act.

Since the implementation of Public Law (P.L.) 94-519, the Corps of Engineers has made numerous vessels available through GSA for Federal and surplus requirements. Included in the available vessels were the following four dredges which were all donated:

Excess transfer in 1976: The Merriwether Lewis which was transferred by GSA to the Department of Commerce for a river front museum at Brownstown, Nebraska.

Surplus transfer in 1979: The William M. Black transferred by GSA to the Iowa State Agency for Surplus Property for donation as a river front museum at Dubuque, Iowa.

Surplus transfer in 1983: The William L. Mitchell transferred to the Missouri State Agency for Surplus Property for donation as a river front museum at Kansas City, Missouri.

Surplus transfer in 1985: The Ste. Genevieve transferred to the Iowa State Agency for Surplus Property for donation as a river front museum to Davenport, Iowa.

It is recommended Section 511 of this bill be eliminated because current authority for disposal of excess/surplus personal property provides an efficient, effective system for disposing of such property. The Corps already has the authority to dispose of surplus property after Federal and State requirements are satisfied. To enact section 511 of the bill will increase and encourage disposal of Federal assets without regard for Federal or State requirements.

NATIONAL
GRAIN & FEED
ASSOCIATION

June 10, 1985

The Honorable James Abdnor
Chairman
Subcommittee on Water Resources
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The National Grain and Feed Association commends you and the Subcommittee on Water Resources of the Committee on Environment and Public Works for holding hearings on proposed legislation that would authorize numerous construction projects and funding for operation and maintenance of the inland waterway system in the U.S. We respectfully request that these written comments be made part of the hearing record.

The National Grain and Feed Association is a voluntary association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex, and includes merchandisers, processors, warehousemen and exporters of a wide spectrum of grains and feeds. Its membership includes 1,300 direct memberships by individual firms. There are 45 state or regional grain and feed associations that are affiliated with the National Association. Their membership includes upwards of 10,000 grain and feed firms nationwide.

Agricultural shippers are major users of the commercial inland waterway system. Grain movements alone account for 37.5 percent of the total commodity movements on the entire system. Consequently, our members have a direct stake in assuring that this system is adequately maintained and financed.

Many of the inland waterway navigation projects authorized by S. 366 and S. 967 are vitally needed if barge movements are to continue as a viable transportation mode within the U.S. Several inland waterway projects are of particular importance to agriculture, including the second chamber of Lock and Dam 26 and the Bonneville Lock and Dam projects.

While favoring these and other important waterway construction projects, we have great concern about the source of funding and cost-sharing formulas that are being considered. The administration's bill, S. 967, would impose a new user fee on barge operators of .15¢/ton mile beginning in October 1985. On a typical barge movement of corn or soybeans out of Illinois, this fee would add $2,650 to the cost of a single barge trip. This cost translates into a cost of about 6¢/bushel of grain moving to port.

This cost would have extremely adverse impacts under the current agricultural economy. U.S. agricultural export markets have been severely depressed for over three years. Our industry, therefore, is apprehensive about waterway legislation that would increase the marketing cost of grain in today's market environment. Higher user fees can only further depress and exacerbate the serious economic problems that exist for agricultural producers and the grain marketing industry.

Because grain shippers and carriers operate in a highly competitive market, they could not absorb the costs of increased user fees. Similarly, it is even more unlikely that these costs could be passed on to foreign buyers. Even now, Congress is seeking legislative remedies to make U.S. exports more price competitive. Additional user charges proposed in S. 366 and S. 967 would work in direct opposition to this initiative. Thus, increased user charges will be passed back to producers, which will further depress gross farm income.

Another consequence of increased waterway user fees is its effect on freight rates of other transportation modes. Barge freight rates are the price leader for bulk commodities among transportation modes. An increase in barge freight rates would be reflected in other transportation rates, especially rail rates.

We believe that some level of public financing of the inland waterway system is appropriate, because there are national defense and other benefits derived from inland waterways that are not readily applicable to commercial or other beneficiaries. But we also recognize that ever increasing budget constraints on the federal treasury may require greater reliance on user charges as an additional source of revenue for construction and rehabilitation of the inland waterway system. For these reasons, we urge you to carefully consider any cost-sharing provisions of new legislation to assure a fair cost-recovery system that will provide adequate funds to rehabilitate and maintain the inland waterway system, but at the same time, will not further depress the U.S. farm economy and agricultural exports.

We would urge that current monies already collected and held in the inland waterways trust fund be made available for the financing of needed new construction projects. And, if additional user fees are deemed necessary by Congress, that fees be implemented in the form of a uniformly imposed fuel tax with a legislated maximum.

To ensure an equitable distribution in the cost burden, we would be supportive of a study of the distribution benefits of waterway projects as one means of determining an equitable method by which all beneficiaries, including government, pay their fair share of costs. We also would support the formation of an inland waterways user board or commission to act as an advisory body to the U.S. Congress in determining national waterways policy.

We appreciate having the opportunity to express our views on this important legislation.

Sincerely yours,

J. Stephen Lucas
Chairman
Barge Users Committee

JSL:clb

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
1800 Massachusetts Avenue, N.W. Washington, D.C. 20036/202-857-9500

Statement
of
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION
Submitted to the
Senate Committee on Environment and Public Works
Subcommittee on Water Resources
on
S. 366 AND S. 534
THE WATER RESOURCES DEVELOPMENT ACT OF 1985

May 15, 1985

The National Rural Electric Cooperative Association (NRECA), representing over 1,000 member-owned rural electric cooperatives serving some twenty-five million people throughout the United States, submits this statement on pending water resource development legislation to the Water Resources Subcommittee of the Senate Environment and Public Works Committee.

The continued development of the national infrastructure and particularly the hydroelectric potential of the nation's waterways is of great interest to rural electric cooperatives. Federal dams played a crucial role in the early years of the rural electrification program, providing electric cooperatives with an accessible and reliable source of power. Today, that power is a valuable resource which helps stabilize rates for rural electric systems, offsetting the high fixed costs cooperatives face in providing electric service to 70 per cent of the country on a geographic basis -- but with an average of only 4-5 customers per mile of line.

We are deeply concerned with the cost-sharing provisions of S. 534, and urge the subcommittee to reject these provisions in favor of the cost-sharing provisions of Senator Abdnor's bill, S. 366.

Given the multi-purpose nature of water resource development, the federal government plays a crucial role in bringing together the different participants in and beneficiaries of water resource development. Federal control and operation of water resource projects insures the most desirable river basin development -- balancing development needs of flood control, irrigation, municipal and industrial water supply, and hydroelectric development with environmental concerns.

S. 534 would radically alter federal policy in development of the country's water resources. Under the Administration's bill, the federal government would have no role in continued water resource development; the nation's waterways would be opened to haphazard private development seeking maximized profits rather than prudent resource utilization.

The Administration's proposal as stated in S. 534 would, in effect, eliminate the right of first access to federally-generated power for rural electric cooperatives' and municipal power systems' in two ways. First, it would end the federal government's participation in the development of the nation's hydroelectric resources. That would end future additions to the power pools of the PMA's from federal water projects. Second, in lieu of federal development, S. 534 would permit any entity willing to provide up front financing for hydroelectric development at a federal site to receive the power from the developed project. Singly or together, these two policies would effectively end any additions to the power marketed by federal power marketing administrations, and would end preference for future federal power development.

Furthermore, S. 534's cost-sharing proposal relating to hydroelectric development suggests that costs associated with development of hydroelectric power at federal dams are paid for by the federal government; and ignores the fact that non-federal interests -- rural electric cooperatives, municipal systems, and other public bodies -- already pay for the construction, operation and maintenance of federal hydroelectric power projects through power purchases from the power marketing administrations (PMA's).

We feel that cost sharing for feasibility studies is contrary to the public interest; it can easily preclude the opportunity for water resource development in depressed areas of the country and disrupts the orderly planning process.

The legislation introduced by Senator Abdnor, S. 366, acknowledges the federal government's role in continuing the development of the country's water resources. S. 366 would maintain the current financing and pay back measures, marketing power from federal hydroelectric projects through the appropriate PMA and repaying the federal investment through rates charged for that power.

It is imperative that we find a way to revitalize the development of our water and power resources. In the best of worlds, this should be done through the appropriations process with the customers of the power marketing agencies repaying the power investment in accordance with present laws. Constraints on the federal budget in recent years, however, have meant that numerous worthwhile projects have not moved forward.

NRECA believes that current policy is able to accommodate changes in the development process without sacrificing policy goals. In that way, future federal participation would not be precluded, the unity of water resource development and management would be continued, and the preference concept and the principle of cost-based rates would be preserved. In short, NRECA would seek flexibility in existing policy, rather than development of radically new policy.

Congress has set a pattern for considering proposals for non-Federal financing of additions to existing projects on a case-by-case basis. The expansion of Buffalo Bill Project in Wyoming and upgrading of the power facilities at Hoover Dam are two projects which we supported because the legislation enacted by Congress protected the preference of our member systems and reaffirmed cost-based pricing in establishing power rates.

Alternative means of financing hydroelectric development at federal sites may be appropriate so long as the preference concept is preserved. In the absence of federal participation, NRECA supports the development of hydroelectric power at federal sites by preference entities. Preference entities financing such projects would be entitled to the project's electric output.

If parties other than preference entities sought to develop hydroelectric power at federal sites, their participation should be limited to financial and tax advantages accruing from the underwriting of the project. In such an instance, the federal government would retain ownership, operation and maintenance of the facility, and the power from the facility would be dedicated to the appropriate power marketing administration for sale to qualifying preference customers.

Should budgetary restraints prevent this approach, then many of our public power groups are prepared to raise the funds for the power developments and have the power from these new hydro plants distributed to preference customers by the appropriate power marketing administrations.

In summary, we support Senator Abdnor's bill, S. 366, which advocates continued Federal development with the power users repaying all power costs with interest, and operation and maintenance of the annual assigned power cost plus some support for irrigation and other appropriate purposes.

We reiterate our strong opposition to S. 554 and its cost sharing provisions as they relate to feasibility studies, construction, operation and maintenance of hydroelectric power at federal dams.

We appreciate the opportunity to present our views.

STATEMENT OF L. E. (LES) SUTTON
CHAIRMAN OF THE NATIONAL WATERWAYS CONFERENCE, INC.
PRESENTED TO THE SUBCOMMITTEE ON WATER RESOURCES
ENVIRONMENT AND PUBLIC WORKS COMMITTEE, UNITED STATES SENATE
WASHINGTON, D.C.

My name is L. E. (Les) Sutton, President of the Dravo Mechling Corporation of New Orleans, and I am also Chairman of the Board of the National Waterways Conference, Inc., in whose behalf this statement is presented. The Conference, now in its 24th year, is a nationwide association of waterway-related enterprises in farming, refining, mining, manufacturing, shipping, barging and associated industries. It is the Conference's purpose to promote a greater understanding of the public value of American waterways and ports and to show their importance in enhancing overall economic growth. Joined in support of our organization are 400-plus businesses, industries, state and local entities, ports and terminals, utilities, cooperatives, etc., serving millions of customers, constituents and/or consumers.

Thank you, Mr. Chairman, for the opportunity to submit this statement concerning the Administration's proposals (S. 534 and S. 967) and your legislation (S. 366) authorizing a number of navigation projects and specifying user-financing formulas. It is significant, I believe, that S. 366 has 25 co-sponsors while S. 534 and S. 967 were introduced only "by request" and without any co-sponsors. Nevertheless, S. 534 and S. 967 cannot be dismissed, for they reflect the current position of the White House on cost reimbursement which is deemed appropriate to justify authorization of new navigation projects. It is against this White House position that any subsequent Congressional action will undoubtedly be weighed in deciding whether it merits the President's signature. For that reason, we take the provisions of S. 534 and S. 967 very seriously.

We applaud the Administration's decision to include a number of project authorizations in its legislative proposals. Since it has been so many years since any waterways projects have been authorized, there is a large backlog of much needed work. Replacement of bottleneck locks and dams is particularly urgent. If an early start is not made on the most critical projects, the overall efficiency of the waterways system could be seriously impaired. Unfortunately, the Administration's proposals also include cost-recovery requirements which, if enacted, would impose a severe and possibly fatal burden on the waterways industry.

The Administration's navigation cost-recovery objective is too high. Ports would be responsible for 100 percent of their maintenance dredging costs, except under certain circumstances, and 70 to 100 percent of construction expenditures. Waterway users would be required to pay approximately 85 percent of the cost of constructing, operating and maintaining the shallow-draft navigation system. The current waterway fuel tax, which will reach its maximum level of 10¢ a gallon in FY 1986, is expected to yield revenues approximating 15 percent of the cost of commercially viable inland locks and channels, and the Administration's pending legislation would levy a ton-mile tax producing revenues, we are told, equaling another 70 percent of navigation outlays. In fact, when the ton-mile tax is initially imposed and while construction projects are still in early stages, users could actually be paying 100 percent (or more) of system costs! And in 1990, when the Secretary of the Army is directed to review the level and adequacy of the ton-mile tax, O.M.B. documents clearly suggest that the rate of recovery could exceed 100 percent!

This means that there would be virtually no Federal financial role in providing or maintaining navigation infrastructure. This is short-sighted and fallacious. The Federal government is one of the major beneficiaries of waterway programs. They stimulate national economic development, contribute to increased international trade, help boost farm incomes and enhance national security. These are national policy objectives which are significant and important to the public at large. Federal participation is vital to the provision of a navigation system which serves the public interest and is responsive to public needs. In the absence of a first-class system of waterways and ports, American exports would undoubtedly decline to much lower volumes, American agriculture would be thrust into even worse economic straits, and more American industrial jobs could be sacrificed. Without question, the nation would be the loser if waterways and ports cease to be Federal responsibilities. Market discipline would force non-Federal interests to pursue goals which are purely commercial. Broad policy objectives benefitting the public at large would go unheeded and unmet.

Administration spokesmen justify the Federal government's bail-out on grounds of fiscal austerity necessitated by massive budget deficits. As is well known, budget cutting is being concentrated in the area of domestic programs, including ports and waterways. These are not recent governmental experiments but well established catalyst-type programs dating back almost 200 years and amply vindicated by their success in generating benefits far in excess of their costs. In essence, navigation investments produce new revenues, adding to the supply side of the American economy. This is no time for the Federal government to withdraw its participation and put agricultural, industrial and shipping sectors into a deeper bind. Fair-share cost sharing may be in order but not the full-share shifting of navigation costs to non-Federal interests.

Another basic flaw in the Administration's inland navigation bill is the lack of any realistic investment criteria. The Secretary of the Army would have carte blanche to select or reject proposed navigation projects and to make commitments of user-generated funds which would be binding over a period of years. Even though users might be contributing most if not all the cost of constructing new projects, they would have only an informal advisory role in selecting projects to be built. Under the Administration's proposal, the Secretary of the Army could build as many navigation projects as he desired (if they presumably met certain standards) and force waterway users to pay for them, whether the users wanted the projects or not. To make sure that their contributions are spent wisely, users must have a greater role in determining investment priorities.

There may also be a need for certain projects other than those which current users may want. Some projects, particularly ports, serve warships, submarines, Coast Guard cutters and other vessels engaged in national defense, search and rescue or life-saving missions; in curtailing illegal immigration and drug traffic, or in handling defense-related or foreign policy-related cargo. Other projects have long-range economic development objectives. Navigation on the Tennessee and Arkansas Rivers and the recently completed Tennessee-Tombigbee Waterway are prime examples of such projects.

It is doubtful that region-building projects can ever be financed on a pay-as-you-go or market-oriented basis, nor should they be. Such concepts are admittedly short-range in nature, designed for almost immediate pay-offs. Economic development projects, by their very nature, are long-term undertakings which are intended to make life better for states and entire regions over a period of many years. In formulating cost-sharing policy, special provisions should be made for financing projects which are essentially planned for economic stimulation. They should not be charged to shippers, carriers and other users of the commercially viable waterway system.

This is especially important now because of the depressed condition of river valley industries, including petroleum, coal, iron and steel, aluminum, chemicals, farm crops and supplies, wood products and building materials. For many reasons, demand has dropped off, markets have dried up, and prices have plummeted. Bulk commodities are now moving in much lower-than-expected volumes, adversely affecting ports, terminals and bargelines alike. In addition, bargelines are confronted with a surplus of marine equipment which has served to further depress rates — often to below-cost levels. In recent weeks, the cost of shipping grain by barge has sunk to pre-1975 levels. For instance, barge rates on moving grain from Peoria, Illinois, to New Orleans, Louisiana now average 3.3 mills per ton-mile — meaning that the Administration's pending user tax proposal would increase barge costs in this instance by 45%! This, unfortunately, is not an isolated example but is typical of river rates for transporting grain, soybeans, and other commodities throughout the United States.

In the weight of this economic turbulence on the waterways, numerous related industries have been swept into hard times: shipbuilding and marine repair, marine insurance, terminal and elevator companies, stevedoring firms, mid-stream services, brokerage and barge management enterprises, etc. Throughout the length and breadth of the river valleys, intracoastal canals and the Great Lakes, the navigation industry is in crisis. This is certainly no time to consider large-scale increases in the cost of waterway transportation, which the Administration's pending user charge recommendations would entail.

The Abdnor bill, S. 366, takes present-day realities into account by not requiring any immediate increase in the waterway fuel tax or in imposing any new ton-mile fee. Operation and maintenance (O&M) of the navigation system would remain a Federal responsibility. Several lock-and-dam replacements are authorized, and provision is made for financing these projects out of the proceeds of the Inland Waterway Trust Fund, which is the depository for the current waterway fuel tax. Unfortunately, S. 366 requires that 100 percent of the cost of inland navigation construction come from the Trust Fund. Thus, users would be solely responsible for construction of new projects -- which is bad precedent and poor policy completely ignoring the Federal responsibility in provision of the navigation infrastructure.

Other pending measures -- the so-called Roe bill pending in the House (H.R. 6) and the Hatfield bill which has been circulated in draft form in the Senate -- specify that one-third of the cost of new inland navigation construction come from current fuel tax proceeds and two-thirds from general revenues. Such a formula recognizes the Federal interest in a strong, modern, efficient water transportation system. There would be a user role. too, since the legislation would establish the policy that shippers and carriers which use navigation facilities would share substantially in the cost of their construction. In view of the precarious state of the waterways industry at this time, it is imperative that construction cost-sharing precedents which are established in the next project authorization bill be workable and liveable over the long haul and that new policies do not contribute to the further demise of the inland, Great Lakes, intracoastal or deep-draft shipping industries.

With regard to new construction, there is across-the-board support in the waterways industry for the cost-sharing concept envisioned in the Roe and Hatfield proposals. The user share is sizeable and significant, and it would come exclusively from the Inland Waterways Trust Fund, which will have revenues of some $193 million by the end of this fiscal year. These funds are generated by the waterways fuel tax paid by towboats and tugs moving cargo on 26 specified shallow-draft channels. The tax is 8¢ a gallon now but it will escalate to 10¢ a gallon on October 1, 1985 — an increase of 25%!

Public Law 95-502 which authorizes the fuel tax stipulates that proceeds must be used exclusively on construction and rehabilitation of navigation projects. Accordingly, we strongly favor the allocation of some appropriate portion of these fuel tax proceeds as the user share of new construction costs — utilizing a cost-sharing formula similar to that in the Roe and Hatfield bills which recognizes a continued Federal responsibility as well as a user role — so that construction can commence without further delay on the most urgently needed inland lock-and-dam replacements.

In today's economic climate, it is impractical to consider the recovery of Federal expenditures for maintenance dredging and navigation locks. They keep the waterways system operational and provide a "public way" which is open and available to many hundreds of bargelines and many thousands of shippers. Intense competition in the movement of waterborne commerce insures that transportation savings are shared by millions of producers, farmers, miners, consumers and others who are the real beneficiaries of the navigation system. Its impact is pervasive in the American economy.

Indirectly, the navigation system may already be paying for O&M costs through its influential role in attracting new industries, making our products more competitive in overseas markets, stimulating general economic activity, enlarging the Federal tax base, etc. As a result, the Federal Treasury benefits substantially and directly.

On the other hand, if O&M costs are recovered through user charges, the U.S. economy might well suffer. The Treasury would get new revenue from navigation users but stand to lose tax monies from other sources. Carriers would have to increase the cost of transporting raw materials, bulk commodities and fuels. In some instances, user charges could not be "passed on" and those movements would cease. Otherwise, they would increase the cost of U.S. iron ore and coal, forcing the steel industry to raise the price of its products or to seek cheaper, often subsidized foreign sources. Similarly, U.S. farmers would stand to lose more overseas markets, further exacerbating our foreign trade imbalance and intensifying pressures for additional agricultural assistance. Domestic agricultural markets could be jeopardized, too, as user charges added to the price of American grain and soybeans.

Electric utilities would have the choice of passing on increases in coal transportation costs to their customers in the form of higher electricity bills or in searching for more economic energy sources, including foreign oil. Chemicals, petroleum, building materials and wood products, in particular, would face similar quandaries. Higher user charges would force industry after industry to re-examine raw material sources, access to principal markets, alternative transportation routes and modes, and location of manufacturing and processing facilities. Such a reappraisal could well lead to a restructuring of America's industrial base and a shifting of plants and mills out of certain interior regions and closer to supply sources, coastal ports, and/or major markets, sacrificing millions of jobs and incomes and ultimately dooming industrial futures in numerous upstream tributary areas.

These are dire consequences but certainly within the realm of possibility in the event user charges at cost-recovery levels are imposed. At stake are the livelihoods and fortunes of countless river valley communities, industries, farms mines and other enterprises. The magnitude of the sphere of potential economic impact necessitates that future user charges be carefully and cautiously developed. Long-standing Federal navigation policy should not be abruptly and radically changed without a thorough, painstaking evaluation of all the possible consequences, both good and bad.

In developing future cost-sharing formulas, certain basic guidelines should be followed. In formulating its pending authorizing/financing legislation, Administration draftsmen apparently heeded only two overriding criteria: recovery of the maximum amount of user-generated monies in the shortest possible time and inauguration of policies leading to the early termination of all Federal financial responsibilities. All other considerations seem to have been completely ignored. Nevertheless, there are in our judgment a number of underlying principles which are integral to the establishment of a fair user charges policy:

Cost allocation. What is the cost of operating and maintaining the commercial navigation components of the shallow-draft waterway system which are properly attributable to commercial users? For 156 years, navigation outlays were non-reimburseable and numerous non-navigation expenditures were routinely charged to the navigation account. Determination of commercial navigation costs is complicated by the fact that such programs are generally part of multi-purpose water resources management projects which would have to be operated even if navigation were discontinued. If percentage cost recovery is adopted, it is imperative that we know the actual cost of the commercially viable shallow-draft navigation system.

Investment criteria. What projects should be built and which should not, and where should user-generated funds be spent? Users should have a key role in making such decisions. If they are to foot a substantial part of the navigation tab, they should have a voice in making investment decisions. Even more importantly, they should not be forced to pay for projects which have only incidental benefits for the commercial navigation system. There must be some effective user control over expenditures before sound user charges policy can be established.

Intermodal equity. What is the Federal government spending, directly and indirectly, on other modes? While D.O.T. maintains that it has a no-subsidy policy toward all modes, Federal agencies are spending many hundreds of millions of dollars on other modes or losing millions (if not billions) in revenues through tax expenditures or other subsidy-effect programs. For instance, the Federal government has invested $7 billion since 1976 in Conrail, justifying the investment on grounds that it would be repaid, but D.O.T. now wants to sell its interest in Conrail and write off its huge subsidy. Railroads are also the beneficiary of many other on-going Federal programs. In establishing transportation user charges, even-handed Federal assistance policies are paramount.

Overall impacts. How would cost recovery affect agricultural, mining, industrial and other economic sectors, and what would be the resulting impact on jobs, incomes, productivity, exports, imports, industrial locations, etc.? Probable effects of high-level user charges on population balance, domestic employment opportunities, fragile coastal environments, and social well being as well as on regional and national economic development should be documented in advance of any policy change. The economic and other consequences of cost recovery could far outweigh any direct benefits which might be realized.

Public value. What is the proper Federal financial role in the inland navigation system? Congress has long used river and harbor investments to achieve certain public policy objectives — initially, the unification of the Nation, furtherance of westward expansion and defeat of sectionalism and, more recently, national economic development, social well being, national defense and environmental enhancement. As a direct result, U.S. citizens enjoy a higher standard of living and a better quality of life. Millions of river valley residents are no longer subject to annual floods, droughts and similar disasters. Factories, mines and farms also have access to an alternative mode — holding down transportation costs and making their products more competitive in markets at home and abroad. These are broad, far-ranging benefits in the public interest which should certainly justify a continued strong Federal role in building and maintaining waterways and ports.

We urge your Subcommittee, Mr. Chairman, to consider these principles in developing wateway user charge policy. We believe they are meritorious, worthwhile criteria which should help determine proper Federal and non-Federal relationships and responsibilities in the provision of the navigation system. Cost-sharing proposals advanced in the past, including the Administration's pending legislation, tend to be based on subjective factors, principally the contention that user charges should produce the maximum Federal revenue without regard to consequences. By contrast, these user charge principles provide a foundation for making sensible, justifiable cost-sharing decisions which should guide and influence waterway and port investments in the years ahead in a positive, far-sighted manner.

# # #

National Waterways Conference, Inc.
1130 17th Street, Northwest
Washington, D.C. 20036

1400 Park Place Tower
Birmingham, Alabama 35203
May 23, 1985

Hon. James Abnor, Chairman
Water Resources Subcommittee
Senate Environment and Public Works Committee
Senate Office Building
Washington, D. C. 20510

Dear Senator Abnor:

We understand that your Water Resources Subcommittee has been conducting hearings on the current Public Works Bill (probably, by comparison with the titles of previous statutes, known as the Water Resources Development Act of 1985) and want to urge strongly that your Subcommittee and the full Committee to adopt an adequate wildlife mitigation plan for the Tennessee-Tombigbee Waterway. Significantly, there is widespread public support for adequate wildlife mitigation. Just the three organizations on whose behalf this letter is written have a combined membership of approximately 4,000 citizens of Alabama and surrounding states, and other organizations support the need for adequate mitigation acreage. In addition, the U. S. Fish and Wildlife Service and the Alabama Department of Conservation and Natural Resources advocate management of at least the 118,000 acres referred to in the CEQ decision discussed below.

As you know, the Waterway is a project of substantial magnitude and, of necessity, impacted a large amount of bottomland hardwood habitat. Therefore, significant mitigation under the Fish and Wildlife Coordination Act is greatly needed for, among others, the following reasons:

(1) Substantial impact on bottomland hardwood habitat. This matter was one of some controversy between the U. S. Corps of Engineers and the U. S. Fish and Wildlife Service in the Department of the Interior ("DOI") and was the subject of a referral (equivalent to an appeal) to the President's Council on Environmental Quality. The Council rendered a decision on March 25 of this year (a copy of which is attached). That decision was favorable to DOI and, in addition, determined that none of the mitigation plans adequately mitigated the serious net loss of 34,000 acres of bottomland hardwoods. We, therefore, urge your Subcommittee and the full Committee to provide for at least the mitigation requested by DOI, i.e. upgrading by habitat management approximately 118,000 acres of bottomland hardwood habitat and acquisition of sufficient acreage to make that amount of habitat available for management. The Council felt that even this would not adequately compensate for the net loss (see p. 2 of its Order); therefore, we feel Congress should at least provide for the amount requested by DOI. As noted in that part of the Order, during the last half-century, bottomland hardwood habitat in the area of the Waterway has been cut more than in half "with a downward trend expected to continue." Further, "This trend, and the high relative habitat value of bottomland hardwoods, provided the basis for a strong stance on the part of DOI in favor of protecting this habitat type."

(2) Need for in-kind replacement. As indicated above, bottomland hardwoods are a rapidly decreasing significant habitat in this country. They are also acknowl-

edged to be one of the most productive habitats. Therefore, they cannot be replaced by management of other habitat-types, such as upland fields, edges and forests, which are not as productive and are not as scarce. The Council studied this matter and came to that conclusion, so we feel that Congress should give due consideration to the Council's informed opinion.

(3) Availability of mitigation land. Some concern has been expressed as to whether such land would be available from willing sellers. However, present data referred to by CEQ shows that ample acreage is available. Therefore, it would not be necessary to resort to the process of eminent domain (which is undesired by all parties). In addition, in the Public Works Bill passed by the House last year, there was included 20,000 acres of land in the Tensaw Delta near Mobile, Alabama. This land is particularly desirable bottomland hardwood habitat that needs to be set aside and protected. It is also in the same river corridor as the Waterway and, further, should be of great benefit to the hunters and tourist industry in the area of the Waterway and, particularly, near Mobile. Thus, there is here presented a great opportunity to provide something extremely significant in the form of wildlife mitigation that will not have any adverse impact on private ownership but will provide a great benefit for the public. It is also strongly needed to compensate for the necessary adverse impact that a water project of the magnitude of the Tenn-Tom naturally had on these scarce bottomland resources.

We, therefore, strongly urge that your Subcommittee and the full Committee include in the Senate's Public Works Bill a provision for acquisition and intensive management of at least the 118,000 acres recommended by the Department of the Interior. This recommendation is submitted on behalf of the undersigned and also on behalf of the Birmingham Audubon Society, The Alabama Conservancy, and the Alabama Ornithological Society, three conservation organization which have authorized the undersigned to write in their behalf and are concerned with the preservation of resources in our area. Your consideration and that of your Committee will, therefore, be greatly appreciated.

Sincerely yours,

Robert R. Reid, Jr.

Robert R. Reid, Jr.,
for himself, Birmingham Audubon Society,
The Alabama Conservancy and
Alabama Ornithological Society

RRR:slc

cc: Hon. Jeremiah A. Denton
Hon. Howell T. Heflin
President & Conservation Chmn, BAS
President, Ala. Conservancy
President, AOS

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE N W
WASHINGTON D C 20006

March 25, 1985

E. R. Heiberg III
Lieutenant General, U.S. Army
Chief of Engineers
Department of the Army
Washington, D.C. 20314

Dear General Heiberg:

This letter is the action taken by the Council on Environmental Quality on the referral of the Tennessee-Tombigbee Waterway Wildlife Mitigation Plan. It is based on evaluation of the official documents presented to the Council by the referring and lead agencies, the written and oral responses of the two agencies at the public meeting held on February 19, and letters written to the Council by the public.

The project itself is an enormous engineering undertaking, encompassing 234 miles. The waterway had been opened for traffic only a month before the Council's public meeting. Not surprisingly, the mitigation plan contains a complex blend of technical and policy decisions. By the time that the Council on Environmental Quality received the referral, most of the technical and policy problems regarding the mitigation plan had been worked out. Nevertheless, a limited number of significant policy questions remained unresolved.

Mitigation as a Public Policy Issue

The Council is deeply concerned about the general policy questions related to mitigation. As a result of this referral, it became clear to us that there is no consistency in mitigation policies from agency to agency, and there are differences in how they are implemented as well. We recommend that a future activity be initiated to discuss and resolve these policy issues, apart from the press of deadlines that characterize specific projects. All agencies that are involved in either wildlife mitigation or construction related activities should be a part of such a cooperative effort. The activity could deal with procedural questions (such as the point in the planning schedule that mitigation discussions begin), technical questions (such as agreement on habitat valuation methods), and policy questions (such as when the policy of in-kind replacement should be employed).

Such a longer term, broad look at mitigation policies would tend to minimize the kinds of disagreements that resulted in this referral. It would, therefore, have a positive impact on wildlife management and project implementation that extends far beyond the narrow issues represented in the Tennessee-Tombigbee Waterway Wildlife Mitigation Plan. In the meantime, the Council must focus on this single project, and we must do it within the schedule imposed by the NEPA Regulations.

The Council's Approach

The Council chose not to render a decision on the technical question of the specific acreage of wildlife mitigation that should be provided for the Tennessee-Tombigbee Project. Instead, the Council accepted the referral as an opportunity to openly examine the remaining policy questions related to mitigation and make a recommendation on what the appropriate policies should be.

While the two agencies involved have had their disagreements in the past, we tried to conduct our deliberations in an open and non-adversarial manner. We hoped, as a third party, to help the Department of the Interior and the Corps of Engineers to view their positions more objectively and to find some middle ground on which they can agree.

In this letter, we will analyze the primary unresolved issues and suggest directions in which future negotiation might proceed. Two basic issues in the Tennessee-Tombigbee mitigation controversy seem to overwhelm all the rest. These are (1) in-kind replacement of special resources and (2) the use of lands on other projects (for which mitigation is incomplete) for mitigating habitat losses on the Tennesseee-Tombigbee. We also observe the key role that a single factor--time--has played in raising these issues to a level of importance.

In-Kind Replacement

The project will result in a net loss of 34,000 acres of bottomland hardwoods. We were told in the public meeting that forested wetlands can be upgraded by 15 to 25 percent through intensive wildlife habitat management. The COE proposal provides for the upgrading of a total of 87,000 acres of bottomland hardwoods. Thus, if each acre were upgraded by 25 percent, this proposal would replace 21,750 (63 percent) of the bottomland hardwoods lost. The DOI proposal provides for the upgrading of 118,900 acres of bottomland hardwoods. This would replace 29,500 (87 percent) of the bottomland hardwoods lost. We conclude, therefore, that even the more ambitious mitigation proposal may fall short of full replacement of the value of bottomland hardwood habitat lost.

Both agencies promote in-kind mitigation as a planning goal, but there are key differences in how this policy is expressed. The Department of the Interior promotes in-kind replacement of high value and scarce habitats. This policy is rather strict in application for those habitat types judged to be of high value and scarce. The Corps of Engineers policy promotes in-kind replacement as a mitigation planning goal, but provides broad discretion for substituting alternative habitats based on technical, economic and political feasibility.

There is a similar divergence on the relative importance of bottomland hardwood habitats. Based on recent studies of the losses of bottomland hardwood habitats, the DOI reports that bottomland hardwood forests in the Mississippi Alluvial Plain decreased from 11.8 million acres in 1937 to 5.2 million acres in 1978, with a downward trend expected to continue. This trend, and the high relative habitat value of bottomland hardwoods, provided the basis for a strong stance on the part of the DOI in favor of protecting this habitat type. The COE written materials acknowledge a determination that mitigation proposals should give priority to replacing habitat value of bottomland hardwood habitat losses. However, the mitigation plan replaces much of the bottomland hardwood losses with other habitat types, and the COE representative in the public meeting argued that bottomland hardwoods are not "scarce."

We understand that the two agencies approach the problem of mitigation from different perspectives. The agency consulted on mitigation will concern itself with what is desirable from a wildlife management standpoint, while the construction agency is also concerned with feasibility. In making our decision, we recognize that economic and other factors should be considered in discussions leading to a revised mitigation plan. We considered two questions. First, what mitigation policies are desirable in this case? Second, to what extent is the feasibility test a limiting factor in the Tennessee-Tombigbee mitigation plan?

The Corps contends that its mitigation plan meets the tests of technical, economic and political feasibility, but does not demonstrate that full, in-kind mitigation of bottomland hardwoods would be infeasible.

It is our opinion that full, in-kind replacement may meet all three feasibility tests contained within the COE policy. First, it is technically possible, through intensive wildlife management of other forested wetlands. Second, the value of each additional increment of mitigation still exceeds the cost in the Corps' proposal. Third, the 1983 COE survey of willing sellers indicates the availability of 92,080 acres of flood plain forests (Mitigation EIS, p. 118).

The Council believes that the bottomland hardwoods in the Southeast are of such importance as wildlife habitats, and becoming so scarce, that the principle of full, in-kind replacement should override other considerations. We strongly recommend that the Department of the Interior and the Corps of Engineers work out a mitigation plan that fully replaces the 34,000 acres of bottomland hardwoods lost, through a combination of management and acquisition (public or private) of bottomland hardwood habitats.

Mitigation Credits from other Projects

Both agencies agree, in principle, with the concept of allowing mitigation credits from existing projects to apply to new projects. Examples were cited in which this has been done. However, for the Tennessee-Tombigbee, the DOI objects because the existing projects had not yet been fully mitigated. The COE agrees that they were not fully mitigated, but contends that they never will be, apart from an alternative source of funding such as the Tennessee-Tombigbee. The Council recognizes that the projects were constructed in the 1950's and it is unreasonable to subject them to today's standards.

We recommend that the two agencies reach an agreement whereby the management of lands on the five existing projects can be used for credit on the Tennessee-Tombigbee consistent with the principle of in-kind replacement of bottomland hardwoods.

Time as a Contributing Factor

Time was a factor in disagreements on the issue of mitigating the Tennessee-Tombigbee Waterway. The agencies agreed on a technical approach under which the wildlife mitigation planning was initiated. The analysis, using the Habitat Analysis Procedures (HEP). was conducted by a multi-agency team, using nine key species for the evaluation. Subsequently, the DOI published its Mitigation Policy which provided for full in-kind replacement of certain special habitats. In addition, the COE later conducted an independent evaluation, using a modified approach but continuing to use the nine key species.

Changes in project plans and mitigation plans are to be expected. However, some provision should have been made for accomodating change. We recommend that mitigation planning on future projects begin early, and that the participants agree in advance on a procedure for modifying the mitigation plan as the project plans change and as habitat information changes.

Sincerely,

A. Alan Hill
A. Alan Hill
Chairman

William L. Mills
William L. Mills
Member

Jacquelyne E. Schafer
Member

cc: Mr. Richard R. Hite
Deputy Assistant Secretary
Policy, Budget & Administration
Department of the Interior
Washington, D.C. 20240

RIVERSIDE COUNTY FLOOD CONTROL AND
WATER CONSERVATION DISTRICT
RIVERSIDE, CALIFORNIA 92502

May 1, 1985

Honorable Robert Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
SH-133 Hart Senate Office Building
Washington, D. C. 20510

Dear Senator Stafford:

Thank you for your letter of April 3, 1985 responding to the resolution adopted by our Board of Supervisors on the Santa Ana River project. I would like to mention that the Boards of Supervisors of Orange and San Bernardino Counties adopted similar resolutions.

The Santa Ana River project planning has a long historv of development going back to 1970. The Corps of Engineers had originally proposed to raise Prado Dam some 45 feet in order to contain a standard project flood and prevent major flood damages in Orange County. The upstream counties of Riverside and San Bernardino objected strenuously to that plan. For example, the high dam at Prado would require the taking of 718 homes, 82 dairies, 6 ranches and 25 businesses; remove 5,545 acres of land from the local tax base and productivity; cost 651 jobs from the relocation of present facilities; and require relocation of a State prison at Chino, California. This was simply too high a price to pay. In addition, the high dam alternative did nothing to protect properties subject to flooding in Riverside and San Bernardino Counties.

Thus, in a cooperative effort between the three counties and the Corps of Engineers, an "All River Plan" was developed in 1975. This plan consisted of improvements to the Santa Ana River Channel in Orange County, improving Santiago Creek in Orange County, raising Prado Dam 30 feet, improving Oak Street Drain, and constructing a dam across the Santa Ana River near Mentone. In early 1981, residents of San Bernardino County and Redlands, California, objected to the Mentone Dam site for environmental concerns and asked that this dam be moved upstream to the canyon mouth of the Santa Ana River. The Supplemental Appropriations Act of 1983 authorized the Corps of Engineers to study alternative dam sites upstream of Mentone in detail. The Corps is nearing completion of that study; it should be completed in late 1985.

The House bill (HR-6) includes the same project features as the Administration bill, S534, except that it provides for acquisition and construction of other elements, i.e., upstream storage, upon approving resolutions by the Public Works Committees of the House and Senate. The House bill also contains language limiting the reservoir take line at Prado Dam to elevation 566. This is vitally important to Riverside County as this would prevent raising Prado Dam more than 30 feet under any circumstance.

The upstream storage element is a necessary part of the Santa Ana River "All River Plan". Without this element, properties in San Bernardino County do not receive flood protection, and the level of protection in Orange County is reduced. In addition, the design at Prado, primarily the spillway, will be more costly because of the limiting take line and increased flows to Prado Reservoir. Without the complete "All River Plan" the three counties cannot maintain a uniform supportive stand for the project.

Our District's Chief Engineer, Mr. Kenneth L. Edwards, has met with Assistant Secretary Dawson and discussed this issue. Mr. Dawson understands the need to maintain integrity of the All River Plan and if the upstream studies prove a feasible project, as indeed they now appear to do, he would recommend authorization of that element upon receipt of such a recommendation from the Chief of Engineers and completion of executive review.

The desire of the 3 counties' Boards of Supervisors is to place language in the authorization bill to allow the upstream storage element to be included in the authorization, subject to the recommendations of the Chief of Engineers and the Secretary of the Army. Such action would assure the integrity of the "All River Plan" and allow sequencing of construction elements in a manner providing maximum early benefits acceptable to local interests. S534 does not provide for that and could leave the upstream storage element in limbo for years, especially considering the difficulty in obtaining new authorizations. We understand the Administration objects to the language in the House bill which would have the Public Works Committees approve the upstream element. In that regard, we are attempting to draft language acceptable to Congress and the Administration that ties the upstream storage element into the authorization.

The Flood Control Engineers from the three counties met with Mr. Donald Cluff in the Office of Management and Budget on March 26, 1985 and discussed this matter in detail. Mr. Cluff was understanding of the problem and willing to work with the local counties in drafting acceptable language.

Another matter addressed in HR6, and not covered in S534, deals with the study of water conservation at Prado Dam. Orange County water interests desire the Corps to store water up to certain amounts and levels near the end of the storm season so they can capture and spread that water in their underground basins. Riverside and San Bernardino County interests have recreational leases and improvements within Prado Reservoir that could possibly be impacted by storage water in the reservoir. Orange, Riverside and San Bernardino County water interests agreed a year ago to the language in the House bill on dealing with that issue.

Thus, you have our analysis and justification for our position as expressed in our Board resolution. I appreciate very much your interest and concern in this matter and hope you will be able to support our position and efforts. If you have any further questions, please feel free to contact me.

Very truly yours,

Walt Abraham

WALT ABRAHAM, Chairman
Board of Supervisors

RP430LA

STATEMENT FOR THE RECORD
BEFORE
WATER RESOURCES SUB-COMMITTEE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

by

MELVIN SHORE
PORT DIRECTOR
PORT OF SACRAMENTO

Hearing date
May 10, 1985

Thank you, Mr. Chairman, for the opportunity to submit these written comments relative to the subject of project authorizations and the Administration's cost recovery approaches. We are particularly appreciative of your personal dedication and that of your sub-committee members to seeking a solution to this continuing dilemma.

FOUNDATION OF PROBLEM

For almost two hundred years the Congress has funded dredging work for channels and harbors associated with the deep water ports of this country. In that time the federal investment has amounted to approximately $5 billion. Being a water related project it has earned the appellation - "pork barrel". That is indeed unfortunate. These expenditures have not been made by the Congress because of some great desire to give away Federal funds.

It certainly cannot be denied that there is a federal responsibility for international trade. Well over 90% of our international trade passes through the ports that have been funded by these past expenditures. As a pure business investment, the Federal government took in over $8.3 billion in customs revenues at these same ports last year. All that without reference to the part played by the ports in promoting exports, an improved balance of payments, etc.

Despite the logic of all these arguments, we are told that the present budgetary problems requires that funding of dredging projects must change.

ADMINISTRATION PROPOSAL

The Administration's current proposal for funding dredging projects calls for:

1. Operation and maintenance - 100% to be funded locally subject to a ceiling based upon per ton cost.

2. New construction to depths of 45 feet or less - 70% funded locally (former "local cooperations" are now included in the portion to be funded locally).

3. New construction to depths greater than 45 feet - 100% funded locally.

4. Authorization for the local authority to recover its costs set forth above by a locally imposed user charge.

5. It would authorize the deepening of the Sacramento River Deep Water Ship Channel.

While certainly the above is a simplification of the proposal, I believe it sets forth the key points that must be addressed.

ADMINISTRATION INITIATIVE

We in Sacramento greatly appreciate the initiative taken by the Administration, and in particular Acting Assistant Secretary of the Army (Civil Works) Robert Dawson in attempting to find a solution to the long stalemate that has existed in moving along projects such as ours. As part of his initiative, he sought from us an agreement to fund 70% of the project locally. My response was included in my letter to Mr. Dawson dated January 18, 1985 (exhibit "A" attached). In that letter, we agreed to not only 70% non-federal funding but even 100% but subject to CONDITIONS that can be summarized as follows:

The local funding would come from:

1. a uniform user charge -or-
2. a diversion of customs revenues -or-
3. another source of revenue applicable at all ports, that would permit continuation of competition among public ports and would fund the sale of a self-supporting revenue bond issue.

I believe, Mr. Chairman, that it is immediately obvious that these qualifiers have no resemblance to those imposed by the Administrator's proposal. That proposal would require that we raise the 70% locally, while our competitors imposed no charge or a minimal charge. Such a situation - which would be repeated many places around the country - would totally destroy the competitive port system as well as inevitably lead to the demise of numerous ports.

I will not burden your record, Mr. Chairman, with testimony on this point. I have testified before your Committee on this very point several times before. I would only add that while the imposition of a ceiling for operation and maintenance helps the competitive situation, it can still lead to deadly differential between ports.

WHERE TO FROM HERE?

I am encouraged by the Administration's proposal in that it demonstrates not only the beginnings of the acceptance of the realities of the port business but also a degree of flexibility to continue to respond to the real needs of the international trade of our country, the ports that handle that trade, the Federal responsibility and the joint venture that has existed between the federal and local interests.

I would urge that your Honorable Committee move out a bill very similar to that which you had last year. While I cannot in all honesty say that I found it perfect, I believe it went a long way toward meeting the needs of the Administration and the local port authorities. Most important it would serve to continue the movement toward a total solution to the problem.

January 18, 1985

Mr. Robert K. Dawson
Acting Assistant Secretary of the Army
(Civil Works)
Department of the Army
Office of the Assistant Secretary
Washington, DC 20310

Dear Bob:

Thank you for your letter of January 9, 1985 indicating that your objective is to keep our deepening project in the President's budget for FY 1986. Specifically you ask if we would be willing to fund 70% of the total capital cost of the project.

You noted the terms to which we previously agreed to a 50-50 cost-sharing in my letter of November 29, 1984. Those terms were:

> The Sacramento-Yolo Port District can undertake the proposed cost-sharing approach to the total project only if enabling legislation applicable to all ports permits each port authority to levy a user charge which is uniformly applied to vessels and/or their cargoes, using the deep water ports of the United States; or permits the diversion of some portion of customs fees for that purpose; or provides some other statutory authority applicable to all ports that would generate revenue from users of the facility and permit the continuation of competition among public ports and provide sufficient revenues to amortize and make saleable self-supporting revenue bonds to be repaid over an extended period of years for advancement of its share of the total initial construction cost.
>
> Further, this letter of intent is given with the understanding that if the Sacramento-Yolo Port District cost-sharing

EXHIBIT'A'

> proposal is acceptable to the Assistant Secretary of the Army (Civil Works), he will recommend to the Office of Management & Budget that an appropriate request for funds to support the Sacramento River Deep Water Ship Channel construction be included in the President's Budget for Fiscal Year 1986. If such a request for funds is not included in the referenced Fiscal Year 1986 Budget, this letter of intent is null and void. As previously recognized, if legislation should be enacted which changes cost-sharing that would be applicable to this project, such cost-sharing provisions would supersede this financial agreement.

Subject to these terms, Bob, we would not only agree to a 70% share, as you suggest, but indeed would agree to a 100% share. I think you will note that these terms are consistant with the position we have taken from the very first introduction of a user charge/cost-sharing concept. We have said that IF there is to be a user charge it must be uniformly applied. In the alternative, the application of a small portion of customs revenue earned at the ports which local interests help to create is more than justified by the benefits that accrue to the United States government. As to the third alternative, a source of funding to support a revenue bond issue that would keep the Port competitive is a direct derivative of the other two.

Of course, once again we would not expect to be responsible for any greater cost-share than is finally enacted into law by the Congress and the President. We also expect that any oral or written representations of our commitment to cost-share will include the qualifiers we have placed upon our agreement.

I greatly appreciate your personal interest in our project and in the subject of proper port development in general. We are aware of the pressing problems you are facing and are anxious to assist in any way that we can.

Most sincerely,

Melvin Shore
Port Director

MS/jg/ns

cc: Congressman Vic Fazio
Congressman Robert Matsui

South Dakota Resources Coalition

Volunteers in the Public Interest

Drawer G, Brookings, S.D. 57007

May 7, 1985

Senator James Abdnor, Chairman
Subcommittee on Water Resources
309 East Senate Office Building
Washington, D. C. 20510

Dear Senator Abdnor:

Some information which arrived after I sent you my statement on Gregory Pumped Storage makes it desirable to add a paragraph to my testimony. The following should be inserted after the first paragraph under "1." at the beginning of my statement:

The spurt in U. S. electrical consumption of six percent in 1984 may have been a freak year created by economic recovery—and by one of the hottest summers in years. It should be noted, however, that last year was the sixth year out of the last eight that the electric efficiency of the S. D. economy has increased: that is, we are using fewer kilowatt hours per unit of GNP than we used in 1976. The Department of Energy still predicts that 1985 will see a 3.3 percent increase in electricity consumption. While alternatives like conservation and solar sources may have more difficulty competing as the Reagan administration cuts off their tax benefits (while keeping tax benefits for nuclear and other traditional sources), "rate shock" from expensive new power plants, especially nuclear plants, can be expected to dampen demand.

* I enclose a new complete statement which contains the above addition. If this should be too late for the May 10 hearing, I would appreciate the corrected statement's distribution to other members of the subcommittee and its placement in the hearing record. Thank you.

Very truly yours,

Esther R. Ellis

Esther R. Ellis

South Dakota Resources Coalition
Volunteers in the Public Interest
Drawer G. Brookings, S.D. 57007

April [illegible]

Senator James Abdnor, Chairman
Subcommittee on [illegible]
[illegible] Hart Senate Office Building
Washington, D. C. [illegible]

Dear Senator Abdnor:

Authorization of the Gregory County Pumped Storage project (S. [illegible]) should not be pursued for the following reasons:

1. There will be no market for the power before the year 2000 and not then if much less expensive non-structural alternatives now beginning to be adopted by many utilities become more commonplace. The MARCA Regional Reliability Council (now called the Midwest Area Power Pool) has been [illegible] in capacity since the late 1970s, the annual overcapacity ranging from 33 to 43 percent. National overcapacity was 39 percent in 1979 and has been 35 percent or higher since 1979. Traditional forecasting methods have become so unreliable that, as the Wall Street Journal put it, only their unreliability is reliable. MARCA's projections for future load growth have been decreasing since 1977, and its compound peak annual growth rate is projected to be 3.5 percent from 1980 to 2000 according to the Gregory County Pumped Storage Interim Report and Final Environmental Impact Statement (19[illegible]). "The projections indicate a considerable decline in the projected growth of demand for electricity in the MARCA region. . . . because the member utilities believe that conservation and their load management programs will be effective in the future." (p. 20). It should be noted that the flat or miniscule demand growth since 1980 is far below the compound peak annual growth rate of 3.5 percent, and the enormous overcapacity in the nation and the region has not essentially been altered.

A spurt in U. S. electrical consumption of six percent in 1984 may have been a freak year created by economic recovery--and by one of the hottest summers in years. It should be noted, however, that last year was the sixth year out of the last eight that the electric efficiency of the S. D. economy has increased; that is, we are using fewer kilowatt hours per unit of GNP than we used in 1976. The Department of Energy still predicts that 1985 will see a 3.3 percent increase in electricity consumption. While alternatives like conservation and solar sources may have more difficulty competing as the Reagan administration cuts off their tax benefits (while keeping tax benefits for nuclear and other traditional sources), "rate shock" from expensive new power plants, especially nuclear plants, can be expected to dampen demand.

Basin Electrical Cooperative has so overbuilt that it has negotiated a power contract to sell excess peaking power to California over Bonneville lines despite Bonneville's need to market its own surplus capacity. (See the enclosed article, "Basin Electric: Awash in Power and Looking for Markets"). Basin presently has an overcapacity of [illegible]0 percent which will be further inflated by approximately 400 [illegible] when Antelope Valley II comes on line in [illegible]. East River Electric Cooperative customers are not even able to benefit fully from the present allocation of Missouri River power from WAPA because they have to pay for Basin's building spree in a long term firm contract. East River has an allocation of 141,000 [illegible] per month from WAPA. In 198[illegible] East River did not use the full WAPA allocation in any month. The inexpensive WAPA power for East River customers totaled [illegible],301 [illegible]. East River has recently installed a load management system to help lower its peak demand, a laudable step since peaking power from Basin costs about six times as much as WAPA power.

So who is going to buy power from Gregory Pumped Storage which needs to be sold at peaking rates?

2. If, after the year 2000, a shortage of capacity appears possible, pumped storage is not a cost effective way to supply it. Since pumped storage consumes 40 to 50 percent more power than it produces, off peak energy has to be purchased to operate it. The economics would be favorable only if a shortage of capacity exists and if baseload power were surplus to the extent that energy to operate pumped storage could be bought cheap and peaking output of pumped storage sold at peak price. The research of Amory and Hunter Lovins, internationally known energy experts, provides solid evidence that much less expensive non-structural alternatives can meet our energy needs through the foreseeable future. (The Lovins were speakers this year at the National Rural Electric Cooperative Association's annual meeting.)

3. The federal deficit and budget crisis makes a white elephant project like Gregory County Pumped Storage unthinkable. There are much better places to spend $1.6 billion in 198[illegible] dollars.

4. Besides the problem of electrical overcapacity, the nation suffers from agricultural overcapacity. To spend scarce federal dollars to develop irrigation on 11,000 to 50,000 acres is nonsensical while farmers are losing their land and Congress and state officials are struggling to solve the problem of foreclosures, overproduction and low farm prices.

5. The Gregory Pumped Storage Final EIS sets forth in detail very serious environmental problems. Besides the destruction of wooded areas, grasslands and producing farms, there are impacts on aquatic life and water quality.

6. The project's 500 to 550 miles of extra high voltage transmission lines would, no doubt, generate the same level of committed and strenuous opposition from South Dakota farmers and other landowners as did the proposed MANDAN line.

In summary, lack of need for additional electrical capacity, less expensive alternatives for any future need, and fiscal sanity should remove this project from further consideration. In view of the fact that the MANDAN project has just been dropped because no market could be found for the power, surely Congress would not want to authorize an even less efficient project than the MANDAN seasonal exchange. Please include this statement in the hearing record. Thank you.

Very truly yours,

Esther R. Edie

Esther R. Edie
Chair

Enclosure

Presented to the United States Senate

Water Resources Subcommittee

May 16, 1985

In Re: S. 534 and S.366
Specifically the Redbank and Fancher Creeks,
California Project

Statement of

Shawn Stevenson
Harlan Ranch Co.
10100 E. Tollhouse
Clovis, California 93612

"Experience should teach us to be most on our guard to protect liberty when the governments purposes are beneficial. Men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greater dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

--Justice Louis Brandeis,
Olmstead v. United States,
277 U.S. 479 (1928)

INTRODUCTION

The United States Senate will be considering two bills (S. 534 & 366) that would authorize the construction of certain projects as proposed by the Army Corps of Engineers.

Authorization of the Redbank and Fancher Creeks, California Project is part of this bill. This project has been designed to provide the metropolitan area of Fresno, California with flood protection. The Fresno area already has a flood control system that has been adequate in most years. The Project as proposed by the Corps of Engineers includes a 13,000 acre-foot capacity reservoir on Fancher Creek; a 1,500 acre-foot detention basin on Redbank Creek; enlargement of the existing Big Dry Creek Project to 32,000 acre-feet; a 280 acre-foot capacity detention basin on Pup Creek; and a 225 acre-foot detention basin on Alluvial Drain.

The need for flood control can not be debated. However, it is in the interest of all parties concerned (federal, state, and local) that multimillion dollar projects such as Redbank-Fancher Creeks be refined to provide only that level of protection that is necessary. It is an irresponsible waste of resources, especially in these days of growing budget deficits, to authorize projects such as this one, without refining the project to provide that level of necessary flood protection.

The Redbank-Fancher Creeks Project contains at least one overdesigned feature. The enlargement of the Big Dry Creek Reservoir, as proposed in the Project plan, is positively unnecessary.

BIG DRY CREEK RESERVOIR

Construction of the Big Dry Creek Reservoir was completed in 1948. It was built by the Army Corps of Engineers in response to the 1938 flood that affected parts of the suburbs northeast of Fresno. Located at the edge of the foothills northeast of Fresno, it is responsible for controlling the waters of Big Dry Creek.

The existing capacity of the Big Dry Creek Reservoir is 16,250 acre feet. That capacity has more than adequately handled all storm events since its construction (37 years ago). The Fresno Irrigation District (F.I.D.) is currently in charge of operation and maintenance. As part of their responsibilities they have maintained detailed records of the operation and use of Big Dry Creek Reservoir.

The year 1969 is the most recent in which the Fresno Metropolitan area experienced severe flooding conditions. In fact, according to U. S. Weather Bureau records, it was the most intense rainfall period in their records which date back to 1887. F.I.D. records indicate that peak volume was reached on February 26 of that year. At that time there was only 5,959 acre feet in storage. With an existing capacity of 16,250 acre feet, the Big Dry Creek Reservoir was only 37% full. This is the maximum volume that has ever taxed the reservoir. In other words Big Dry Creek Reservoir more than adequately handled the largest and most intense flood event in recorded history. During January and February 1969 there was no water from Big Dry that was contributing to the flood problems of the Fresno-Clovis area. The Army Corps of Engineers feasibility report indicates that the Big Dry Creek Reservoir controlled the flood waters of all storm events since its construction, and indeed has protected downstream areas from an estimated $14,000,000 in damages. The report notes that flood damage in the downstream area was due to local inflows and canal breaks, not Big Dry Creek water. During a flood event, the Big Dry Creek channel is closed completely and the water diverted to the San Joaquin River via the outlet channel.

In light of the evidence that Big Dry Creek Reservoir has already proven itself far more than adequate to protect downstream areas from flood damage, and recognizing that it has never been more than 37% full, it seems ludicrous to further increase capacity. However, current project designs call for the existing dam to be raised an additional 8 to 10 feet (increasing overall height to 50 feet), and thereby doubling capacity to over 32,000 acre feet.

There are areas within the flood protection system that have proven to be inadequate. It seems reasonable to focus attention on rectifying these aspects, rather than to tamper with a demonstratively adequate facet of the project.

CONCLUSION

The estimated cost of increasing the capacity of the Big Dry Creek Reservoir is $14,200,000. Whereas there is no reasonable evidence to support an increase in capacity of this reservoir, these funds would be wasted. It is the duty of our elected officials (Senators and Congressmen) who consider such federal projects, to act responsibly and with frugality to ensure that the taxpayer's money, with which they are entrusted, is not expended for such unnecessary purposes.

The entire Redbank-Fancher Creeks Project cannot be considered unnecessary. However, the United States Senate, specifically the Water Resources Subcommittee, should direct the Army Corps of Engineers to delete the planned increase in capacity of the Big Dry Creek Reservoir before the Redbank-Fancher Creek Project is authorized.

This statement has been endorsed by the following people:

Shawn and Christine Stevenson

Peg Bos, Mayor of Clovis, California

Robert Ferrara

Bonner and Barbara Sample

Floyd L. Harlan

Leola R. Harlan

Robert and Joyce Smith

Jan Smith

Bill and Sally Sharer

Greg F. Harlan

Jim R. Aluisi

Earl Smittcamp

Judy Andreen, Supervisor District 5,
Fresno County, California

ANDREWS, ANDREWS, JONES, DEAL & GANAHL
ATTORNEYS AT LAW
SEVENTH FLOOR HELM BUILDING 1111 FULTON MALL
FRESNO, CALIFORNIA 93721

May 14, 1985

EXPRESS MAIL

Honorable James Abdnor
Chair, Subcommittee On Water Resources
Committee on Environment and Public Works
UNITED STATES SENATE
Dirksen Office Building, Room 410
Washington, D.C. 20510

RE: S. 534 and S. 366
"Water Resources Development Act of 1985"
Subcommittee Hearing May 16, 1985
Title III Sec. 301(a)(7) - Redbank-Fancher Creeks Project, Fresno County, California

Subject: Big Dry Creek Dam and Reservoir

Honorable Chair and Members of the Subcommittee:

This letter is furnished to supplement the written statement and any oral testimony of our client Shawn Stevenson who is due to attend your May 16 hearing. As it is understood only Members of Congress will be permitted to testify at said hearing, it is requested that both Mr. Stevenson's statement and this letter be made a part of the record of said hearing.

Mr. Stevenson is a member of the Harlan family which for over more than 40 years has owned grazing land and now citrus grove acreage principally impacted by the existing Big Dry Creek Dam and Reservoir, completed by the Corps of Engineers in 1948, and which would be even more severely impacted by the proposal to raise said dam at least 8.2 feet above its present 40-foot height and double its present 16,250 acre foot capacity to 32,300 acre feet. (These are figures given in testimony by Corps of Engineers, Sacramento District, officials before the Fresno Metropolitan Flood Control District Board of Directors in Fresno last evening and, therefore, assume deletion of the recreational pool aspect with higher dam elevation and larger reservoir as heretofore proposed per the Project Report as published in House Document 98-147 and as reviewed under the Environmental Impact Statement published by the Corps of Engineers, Sacramento District, July 1980.)

Mr. Stevenson's grandparents, Leola and the late Gordon Harlan, granted rights for construction and operation of the present Big Dry Creek Dam/Reservoir for flood control purposes only and to be operated as contemplated in House Document 845, 76th Congress, Third Session, such being simply an easement without the relinquishment of fee title. Said grant of easement allows a maximum reservoir at 425 feet above sea level while the proposal now before you, as modified to delete the previously proposed permanent recreational pool, would raise that level to elevation 433.2 feet above sea level (though design continues and the project has not yet been authorized by either the California Legislature or the Congress). Leola and her son, Floyd L. Harlan, who is the father of Shawn Stevenson, plus three other children of Floyd L. Harlan collectively own some 4,500 acres directly affected, including approximately 360 acres in several citrus groves adjacent to the reservoir site.

The Harlan family objects to any change in the existing Big Dry Creek Dam/Reservoir, contends that it is fully adequate for flood control purposes, and urges that expenditure of any sum for enlargement would be a waste of public funds, especially in this day of deficit budgets. We are stating no objection to the other 9 parts of the Redbank-Fancher Creeks Project which is before you for authorization of $84,100,000 per the Administration Bill. We are addressing only the Big Dry Creek Dam/Reservoir enlargement aspect of the pending proposal. There have been estimates of the cost of said enlargement, as modified to delete the recreational aspect, at $14.2 million to $20 million and we believe the public interest justifies deletion of that entire aspect (one of ten) of the Redbank-Fancher Creeks Project which is before the Congress and the California Legislature. (The only bill on this subject pending before the State Legislature of which I am aware is AB 2113 which would authorize the project "substantially in accordance with the recommendations of the Chief of Engineers in House Document No. 98-147", i.e. it does not reflect the deletion of the recreational aspect re the Big Dry Creek Dam/Reservoir.)

Testimony by the Corps representatives last evening before the FMFCD Board of Directors included the following:

1. The existing Big Dry Creek facility passes all recently enacted dam safety requirements, though naturally the Corps Engineers opine that additional "freeboard" would be desireable.

2. The highest utilization of the existing facility to date was not the February 1969 storms (as previously reflected by the FMFCD) which utilized approximately 37% of the reservoir existing

16,250 acre foot capacity, but instead the December 1955 storms in which the reservoir hit a maximum of 7,000 acre feet storage, i.e. only 43% of its 16,250 acre feet capacity.

3. The proposed enlargement of Big Dry Creek Dam/Reservoir (after modification downward for deletion of any recreational aspect) would protect against the so-called Standard Project Flood which was estimated by the Corps of Engineers to be a 250 - 300 year storm (though in the 98 years for which Weather Bureau records exist there has never been precipitation greater than in February 1969 or December 1955).

4. The Standard Project Flood (SPF) level of protection is determined by applying national standards adopted by the Federal Water Resources Council, which criteria do not adjust for local conditions such as the arid territory involved here.

5. The wholly new facilities being proposed as a part of the Redbank-Fancher Creeks Project are each designed to a 200 year storm level (it is our understanding the Fancher Creek new reservoir is undergoing down-design from its originally proposed 13,000 acre foot capacity to something substantially less).

6. The Big Dry Creek maximum inflow which could be accommodated by the SPF present design is 8,000 cubic feet per second (which is the maximum rate of discharge allowed from Friant Dam down the channel of the San Joaquin river, the largest waterway in the entire San Joaquin Valley).

7. A 20,000 acre foot Big Dry Creek Reservoir would be adequate to protect against a 100 year storm even under Water Resources Council criteria.

The Harlan family and neighboring owners who have lived with the existing Big Dry Creek facility since its completion in 1948 concur that the reservoir capacity has never been utilized beyond the 37% or 43% figure stated above. They believe that the existing ability to discharge to the natural Dry Creek Channel should be utilized to the maximum (without flooding downstream areas, which use would enhance ground water recharge for the Metropolitan Fresno-Clovis area) and if necessary the existing diversion channel constructed as part of the 1948 project from the Big Dry Creek Dam northwesterly to the natural channel of Little Dry Creek (whence it flows to the San Joaquin river) should be enhanced above its present 900 c.f.s. capacity (which is apparently never utilized above 700 c.f.s. due to intervening local water inflows).

The possibility of increasing the capacity of Little Dry Creek Outlet Channel from its 900/700 c.f.s. present capacity to 1,600 c.f.s. was studied by the Corps and found "economically justified" in its Environmental Impact Statement, but for some unseen reason has not been included in the project proposal before you. To the other advantages of such an increase would presumably be the additional one of allowing said channel to accommodate the now troublesome hillside and minor streams "local flows" which originate northwest of the Big Dry Creek Reservoir, pose a hazard to the present outlet channel and cause sporatic flooding in an area historically known as Behymer Lake, a low spot not protected by the Big Dry Creek existing or proposed facility and in which many homes have recently been inappropriately built. That is, the proposal before you would not help those people with homes in the Behymer Lake natural sump southwest of Big Dry Creek and yet an expansion of the Outlet Channel to accommodate not only greater flows from Big Dry Creek but to also intercept the other water which is a problem for the Behymer Lake people would seem indicated and, as indicated on page 37 of the EIS, has been found "economically justified." (An already authorized by the Congress but not yet fully appropriated "clearing and snagging", i.e. rehabilitation, project exists with respect to the San Joaquin River Channel with increased appropriation and further authorization desired by local interests along the river as it traverses the five counties of Fresno, Madera, Merced, Stanislaus and San Joaquin to the deep-channel of the river at the Port of Stockton. The furtherance of that river rehabilitation project should allow inflows to increase for the river downstream from Little Dry Creek above the present capacity of 8,000 c.f.s. to the state-of-nature capacity of 15,000 to 20,000 c.s.f. which existed before the United States constructed Friant Dam/Millerton Lake on the San Joaquin River upstream from Little Dry Creek.)

We believe it is important for the members of your subcommittee, the full committee, all Senators and all Representatives to realize that all the subject reservoir impounds is the storm water runoff collected in two seasonal creeks which drain a very arid, minor watershed area of Central Northeastern Fresno County. We are not dealing here with year-around rivers or even streams, simply seasonal creeks the larger of which is well-named "Dry". However, what the project proposal before you contemplates is increasing the reservoir capacity from 1/6th to 1/3rd that of Huntington Lake, a major hydroelectric and recreation facility in the Sierra Nevada farther northeast in Fresno County which is created by three major dams impounding the year-around and heavy snow-melt runoff of major tributaries to the San Joaquin river.

Though it is apparently not now a stated purpose of the proposed enlargement of Big Dry Creek Dam/Reservoir, it was made clear at last night's consideration of this project by the FMFCD Board of Directors that its manager contemplates eventual usage of the reservoir for off-season storage of water, i.e. an essential change in the pure flood control nature of the project as restricted under the easement heretofore granted by Mrs. Harlan and her late husband and as we understand is now contemplated by the Corps of Engineers with deletion of the recreational aspect. The Harlans are understandably concerned by the prospect of ultimate conversion of the reservoir to storage not only of Big Dry Creek and Dog Creek waters but also apparently of waters purchased by the City of Fresno from the U.S. Bureau of Reclamation diverted from its San Joaquin river impoundment at Millerton Lake via the Friant-Kern Canal which flows south from Millerton Lake to within a short distance of the existing Big Dry Creek Reservoir. The Bureau of Reclamation has disputed any assertions of ground water recharge benefits from such storage and has pointed out that the evaporation which would occur might well overcome any conservation benefits otherwise perceived.

The Harlans also fear from the proposed expansion creation of thermal conditions hazarding their adjacent citrus groves, i.e. below freezing temperatures. One study indicates that the proposed 8.2 foot increase in the dam heighth would cause groves within the air bowl thereby create to suffer an approximate 4° to 5° F. lower temperatures than now experienced and it is the Harlans belief that even their groves south of the dam would likewise be affected to some degree.

To add injury to injury, the FMFCD recently purported to effect a 269.2 square mile annexation to its pre-existing territory, approximately tripling the size of the district, by extending its boundaries far beyond even the ultimate urban boundary of the Fresno-Clovis Metropolitan area so as to include farm and grazing lands throughout the Big Dry Creek as well as Redbank and Fancher Creek drainage areas to an elevation of approximately 3,500 feet above sea level. This was done without an Environmental Impact Report being performed under the California Environmental Quality Act and without the District Board of Directors making any finding in fact that the annexed lands will be benefitted by the annexation which was avowedly undertaken as a prerequisite to the District providing the "local assurances" in conjunction with the Redbank-Fancher [Big Dry Creek] project which is before you.

Because of the defects in the subject annexation proceeding, known as FMFCD Annexation No. 44, we on behalf of members of the Harlan family and other property owners yesterday filed suit in the California Superior Court for Fresno County against the District and the Fresno County Local Agency Formation Commission to invalidate the subject annexation. As the District proposes to finance its local contribution to the cost of the project before you through the levy of special assessments within all that part of the annexed territory lying west of the Friant-Kern Canal, including the Harlans' property, if we are successful in obtaining a judgment of invalidity of the annexation then the District's plan for raising its local contribution to the project will be frustrated.

We will also soon be appearing before the California Legislature Assembly Ways and Means Committee regarding the authorization legislation for this project, AB 2113. The Director of the California Department of Water Resources, within the administration of Governor George Deukmejian, has already stated that he concedes the state legislation to be premature. I am sure the state legislature will wish also to consider the testimony we will offer to the same effect as stated to you in this letter, namely there is no public need for the proposed public expenditure which would be involved in enlarging the Big Dry Creek Dam/Reservoir.

Therefore, in conclusion, we request that your subcommittee direct at its earliest opportunity that any enlargement of the Big Dry Creek Dam/Reservoir be deleted as a part of the subject Redbank-Fancher Creek Project.

Thank you for your consideration of these points and we stand ready to provide any further information you may desire.

Sincerely,

RDAndrews

Richard D. Andrews
ANDREWS, ANDREWS, JONES, DEAL & GANAHL

RDA:el
cc: Assemblyman Bruce Bronzon
cc: State Senator Rose Ann Vuich
cc: State Senator Kenneth Maddy
cc: Assemblyman Bill Jones
cc: Assemblyman James Costa
cc: Hon. Richard H. Lehman
cc: Hon. Tony Coehlo
cc: Hon. Charles Pashayan, Jr.
cc: Hon. Alan Cranston
cc: Hon. Pete Wilson
cc: Mr. Harold Brayman
cc: Mr. Shawn Stevenson
cc: Mr. Robert K. Dawson
cc: Mrs. Gordon Harlan
cc: Mr. Floyd Harlan

P.S. I enclose a proposed Amendment to the Corps' bill before you, S. 534, which can be adopted to your own S. 366 though S. 534 apparently uses gross cost to all contributors while your bill reflects only the estimated U.S. contribution.

R.D.A.

Amendment To S. 534 (99th Congress)

"Water Resources Development Act" (Stafford by Request)

Article III Sec. 301(a)(7):

Prepared by Attorney Richard D. Andrews on behalf of clients Harlan and Sevenson

RE: Redbank-Fancher Creeks Project, Fresno County, California:

At page 31, lines 9-10"

> " . . . . $45,800,000 (October 198~~3~~5); provided, however, nothing herein shall be deemed to authorize any enlargement of the existing Big Dry Creek Dam or Reservoir;"

A comparable amendment is proposed to S. 366 by Senator Abdnor, et al., page 78 line 21, which would authorize Federal cost as contrasted to total cost under the Administration's S. 534.

May 28, 1985

The Honorable James Abdnor
Chairman, Subcommittee on Water Resources
Senate Committee on Environment and Public Works
SD-410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

We are pleased to see that hearings on S. 366, the Water Resources Development Act of 1985, and other water resources development proposals have begun. The Transportation Institute has closely followed the efforts of the Subcommittee on Water Resources over the past several years to develop a national water resources policy. We remain optimistic that the substantial progress already made toward that end will provide the foundation for a water resources policy which will serve the national interest and treat all American economic sectors with equity.

While we are pleased that your Subcommittee continues its examination of this important issue, we have serious concerns with the port development title of S. 366, as we had with its predecessor in the 98th Congress, S. 1739. Specifically, as we have noted before, we believe that the port provisions of this legislation would disproportionately burden U.S. domestic carriers and further debilitate an already troubled American merchant marine. We urge that Title IX of S. 366 be substantially amended before it is reported to the Committee on Environment and Public Works for further consideration.

There are several provisions in Title IX of S. 366 which would have a serious and inequitable effect on American vessel operators. One of the most onerous will allow a deep-draft port to impose user fees to recover its local share of improvement and operation and maintenance (O&M) expenditures for channels deeper than 45 feet on vessels not requiring channel depths in excess of 45 feet. The Transportation Institute believes that this provision is patently unfair to U.S.-flag vessels, very few of which require a channel depth greater than 45 feet. As we noted last year in testimony before your Subcommittee during its consideration of S. 1739, we believe that it is incumbent upon the Congress to identify the true beneficiaries of port and channel deepening, and to then establish a framework which ensures that only project beneficiaries will be required to finance such projects, if cost recovery legislation is to be enacted.

The Transportation Institute is also concerned with the lack of a specific user fee mechanism in Title IX to achieve its cost recovery goals. We believe it will be disastrous for each port to be given the latitude to establish the type, amount and number of fees it sees fit to impose on practically anyone it chooses. As you know, the type of user fee mechanism has been one of the most contentious issues of the entire water policy debate. We feel strongly that the Congress must assume the responsibility for establishing the appropriate user fee mechanism, rather than deferring this decision to individual ports. If consensus cannot be reached on this critical issue by the Congress at this time, then we suggest that the charter of the National Commission on Harbor Maintenance be expanded to include a recommendation to the Congress regarding an appropriate user fee mechanism.

The provision in Title IX which requires a 30 percent non-federal contribution for new construction in general cargo harbors is an additional area of concern. Given the fact that the nation is wholly dependent on these general cargo harbors as the conduit for 95% of our foreign trade and a significant portion of domestic commerce, it is unwarranted that local entities be required to fund part of the cost of channel improvements. General cargo harbors provide an important contribution to many sectors of the economy as well as to our national defense. The Institute feels strongly that the benefits to the nation as a whole from these harbors are so considerable that it is in the national interest for the Congress to continue full federal funding.

Lastly, the Transportation Institute urges that the Subcommittee delay the imposition of the $420 million annual cap for federal funding of harbor operations and maintenance at least until the National Commission on Harbor Maintenance presents its recommendations to the Congress. While this level of funding may be sufficient in the near term to adequately provide for harbor O&M, we feel that the establishment of an inflexible cap without further study may adversely affect American carriers and shippers and injure U.S. domestic and foreign trade should the Congress decide to not act on the recommendations of the National Commission soon after its report is submitted.

In summary, the Transportation Institute continues to believe that Title IX of S. 366 places a disproportionate and unfair burden for the costs of harbor improvement and port deepening projects on U.S.-flag carriers. While we share your frustration that there has not been a significant water resources bill enacted by Congress in 15 years, we nonetheless believe that the significant concerns regarding the effect that Title IX as drafted would have on the U.S. merchant marine must be addressed before moving forward with this legislation. We will be glad to work with you in order to craft a port development title which will be consistent with the longstanding federal policies and programs designed to sustain and support the U.S.-flag merchant marine.

Sincerely,

Peter J. Luciano

Peter J. Luciano
Executive Director

LAW OFFICES
BILLIG, SHER & JONES, P. C.
SUITE 300
2033 K STREET, N. W.
WASHINGTON, D. C. 20006

May 20, 1985

By Hand

Honorable James Abdnor
Chairman
Water Resources Subcommittee
Committee on Environment
  and Public Works
United States Senate
Room 410
Dirksen Senate Office Building
Washington, D.C. 20510

Re: Water Resources Legislation;
Opposition to Port User Fees

Dear Mr. Chairman:

On behalf of 28 ocean common carriers ("liner carriers") */ we write to strongly oppose inclusion, in water resources legislation, of provisions which would authorize or impose so-called port "user fees". The particulars of the carriers' views are set forth in the enclosed statement but the key points of the statement may be summarized as follows:

1. Liner carriers generally and strongly oppose port user fees. Indeed, if the price of port development is user fees on liner carriers, the carriers would rather do without; and

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*/ A.P. Moller-Maersk Line; Achille Lauro; Atlanttrafik Express Service, Ltd.; Barber Blue Sea Line; Barber West Africa Line; CIA Venezolana de Navegacion; Columbus Line; Compania Trasatlantica Espanola, S.A.; Constellation Lines, S.A.; Costa Line; d'Amico Societa di Navigazione per Azioni; Dart-M.L., Ltd.; Farrell Lines, Inc.; Flota Mercante Grancolombiana, S.A.; Hapag-Lloyd, AG; Italia Societa' Per Azioni di Navigazione; Jugolinija; Jugooceanija; Lykes Bros. Steamship Co.; Nedlloyd Lines; Nordana Line/Dannebrog Lines AS; Pace Line; Prudential Lines, Inc.; Sea-Land Service, Inc.; The National Shipping Co. of Saudi Arabia; United Arab Shipping Co.; Waterman Steamship Corp.; and Zim Israel Navigation Co.

2. Liner carriers particularly oppose user fee proposals which would

   (a) Allow liner vessels (which do not draw 45 feet of water) to be taxed to finance dredging to depths greater than 45 feet; or

   (b) Allow fees to be imposed on an *ad valorem* basis.

Because S. 366 is contrary to the carriers' positions on these key issues, they are opposed to it.

We respectfully request that this letter and the enclosed statement be made part of the record of the Subcommittee's May 10 and 16 hearings on water resources legislation.

If you have any questions on this matter, please do not hesitate to advise.

Sincerely,

Marc J. Fink

Marc J. Fink

John A DeVierno

John A. DeVierno

Enclosure

cc (w/encl.): Senator Daniel Patrick Moynihan
Mr. Thomas Skirbunt
Mr. Michael Brown
Mr. Paul Chimes

MJF/JAD:smh
270-00-01

Note: Several of the concerns represented herein are foreign-based; Billig, Sher & Jones, P.C. has registered with the Department of Justice pursuant to the Foreign Agents Registration Act with respect to its representation of foreign concerns.

Statement Of
TWENTY-EIGHT
OCEAN COMMON CARRIERS
OPPOSING
PORT USER FEES

Mr. Chairman and Members of the Subcommittee:

This statement is submitted on behalf of 28 ocean common carriers of freight (generally referred to as "liner" carriers) serving the foreign commerce of the United States.[1] Collectively, these carriers serve virtually all major U.S. ports and fly both U.S. and foreign flags. They are representative of the entire class of liner carriers serving the U.S. foreign commerce and we believe that their views on port legislation reflect those of the liner carrier industry.

While there are a number of issues in port legislation pending before the Subcommittee, this statement is submitted to reaffirm our (the 28 carriers') strong opposition to the provisions of port legislation (including the provisions of Title IX of S. 366) which would authorize the imposition of taxes on liner carriers to finance harbor and channel dredging (so-called "port user fees"). By this statement we also wish to make clear our unalterable opposition to the port provisions of the Administration's bill, S. 534, which contemplate port user fees at astronomical levels. In short, we urge the Subcommittee not only to reject the Administration's approach to port legislation, but to amend S. 366 in mark-up to eliminate authorization for user fees on liner carriers.

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[1] A.P. Moller-Maersk Line; Achille Lauro; Atlanttrafik Express Service, Ltd.; Barber Blue Sea Line; Barber West Africa Line; CIA Venezolana de Navegacion; Columbus Line; Compania Trasatlantica Espanola, S.A.; Constellation Lines, S.A.; Costa Line; d'Amico Societa di Navigazione per Azioni; Dart-M.L., Ltd.; Farrell Lines, Inc.; Flota Mercante Grancolombiana, S.A.; Hapag-Lloyd, AG; Italia Societa' Per Azioni di Navigazione; Jugolinija; Jugooceanija; Lykes Bros. Steamship Co.; Nedlloyd Lines; Nordana Line/Dannebrog Lines AS; Pace Line; Prudential Lines, Inc.; Sea-Land Service, Inc.; The National Shipping Co. of Saudi Arabia; United Arab Shipping Co.; Waterman Steamship Corp.; and Zim Israel Navigation Co.

In the balance of our statement we will, after briefly describing the vital role liner carriers play in our port communities and in the conduct of our nation's commerce, explain more fully our general opposition to port user fees, and our particular opposition to certain types of user fees which would unfairly focus on or greatly burden liner carriers.

Background

Liner carriers play a vital role in the import and export commerce of this nation. By providing regularly scheduled service and accepting small as well as large cargoes, they provide virtually all of the export/import ocean carrier service utilized by small and medium sized businesses, as well as a great deal of the ocean service utilized even by the largest companies. Further, liner carriers transport virtually every type of cargo.

In providing these diverse and necessary services, liner carriers generate very substantial employment and economic activity at ports. They have agents in ports; they own property in ports; and they extensively utilize the services of stevedores, longshoremen, and suppliers of commodities needed to operate ocean-going vessels with crew -- such as fuel, food, and other supplies. Liner carriers thus contribute very significantly to the overall economic welfare of the port community.

This was clearly illustrated in a recent study prepared for the Maryland Department of Transportation regarding the port of Baltimore. According to that report general cargo (the type of cargo carried by liner carriers) was responsible for 50 percent of the port related jobs while comprising only 21 percent of the port's overall cargo tonnage. General cargo generated 31.8 jobs per 10,000 tons in Baltimore in 1980; the comparable figure for dry bulk cargo was 4.9 tons.

Liner carriers operate vessels (primarily containerships and similar vessels) which usually draw 30-35 feet of water. While some of the newer liner vessels draw closer to 40 feet of water, to our knowledge even the most modern and largest liner vessels on order do not require as much as 45 feet of water. So, while testimony on port legislation presented to various Congressional Committees in past years is replete with statements to the effect that U.S. ports are not dredged to depths (greater than 45 feet) which can accommodate a new generation of large bulk cargo vessels, we emphasize today that there is no such imbalance between the dredged depths of our nation's port system and the operation of modern containerships.

In short, our nation's port system, dredged to present depths, does and will, for the presently foreseeable future, enable liner carriers to serve the shipping public and the entire nation. This is not to say that liner carriers oppose new port improvement projects. However, if the price of port improvements, particularly very deep draft (over 45 feet) dredging, is "user" fees on liner carriers, we would rather do without.

General Opposition to Port User Fees, Particularly for the Financing of General Cargo Port Projects

We believe that the benefits to the nation which result from channel and harbor dredging at ports (both improvement and maintenance dredging) are so considerable, in terms of facilitating exports, imports, and job development, that it is fully appropriate to continue to wholly fund these dredging projects from existing Federal revenue sources, rather than from user fees. We all understand that import and export goods carried by ship, no matter how quantified, have a major impact on our daily lives. In our view, it is because port activity and international trade are so tied to the economy of the nation as a whole (and this is the case now more than ever before) that the statutory policy of the Federal Government has always been, until now, to supply 100% of the funding for dredging projects.

It is particularly appropriate to maintain this policy with respect to improvement and maintenance dredging at general cargo ports (those dredged to depths no greater than 45 feet). S.366, however, fails to maintain this policy. Section 903(a)(1) of S. 366 would establish that 30% of the cost of construction of general cargo projects shall be borne by local authorities (who may in turn impose "user fees" to raise that 30%).[2]

In contrast to S. 366, the present Federal role in financing general cargo port projects would be continued under the leading port bills currently pending in the House of Representatives, H.R. 6 and H.R. 45. The House Committee on Public Works and Transportation clearly justified this position in its report last year on H.R. 3678, the predecessor to H.R. 6, when it said (H.R. Rep. No. 616, Part 1, 98th Cong., 2d Sess. 5 (March 8, 1984)):

> ...the United States ports constitute an essential element of the Nation's transportation system, making possible the import and export of goods to the benefit of the entire population. The ports generate substantial revenues, including customs revenues as well as tax revenues, to the Federal Treasury. The benefits associated with ports are not port specific, nor are they specific to various regions of the country. For these reasons, the Committee has retained Federal involvement in the construction and maintenance of the general navigation features of general cargo ports, which are those ports having a depth of 45 feet or less.

Further, not only does the general populace benefit from Federal spending to dredge harbors, but, as noted in the Public Works Committee's report, the dredging of general cargo harbors and channels produces financial benefits for the government as well. A study prepared for the Department of Commerce[3] found that, due to the depressing effect of user fees on overall economic activity in ports and other affected communities, the imposition of port user fees could result in a net loss to the U.S. Treasury; at a minimum the amount of any user fees collected would be significantly offset by reductions in other revenues. We certainly agree that user fees would have negative effects on economic activity, and thus believe that claims that user fees would help reduce the budget deficit are highly suspect.

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[2] S. 366 appropriately maintains 100% Federal financing of maintenance dredging to depths no greater than 45 feet.

[3] Bushnell, Pearsall, and Trozzo, Economic Effects of Levying A User Charge To Finance Harbor Maintenance, Summary Report, September 16, 1983.

Also with respect to the deficit, it is clear that the dredging of harbors has not been in any way a cause of our nation's budgetary problems. We understand that total Army Corps of Engineers expenditures for improvement and maintenance dredging of harbors and channels serving ocean commerce will approximate $502 million in FY 1985. The comparable figure for FY 1980 was $408 million. Thus, considering inflation, this program has experienced a decline in real terms in recent years.

In short, we believe that the national economic benefits which stem from general cargo port activity are a compelling reason for Congress to reject proposals which would authorize port user fees on liner carrier vessels. Moreover, we reject the notion that the budget deficit compels the Congress to adopt unwise and radical changes in our nation's system of port financing. Indeed, the depressing economic effect of user fees, which in turn would reduce various tax and customs revenues, could offset or outweigh any budget gains to the Treasury from user fees.

Thus, we would amend section 903(a)(1) (and make conforming changes to other provisions of Title IX of S. 366) so that the Federal share of the cost of constructing general cargo projects would not be reduced from its present 100% level.

Particular Objections To Certain Types of User Fees

If the Congress should, despite our objections, choose to impose fees (or authorize them), we want to make clear our particular objection to certain fee approaches which would focus unfairly on or greatly burden liner carriers.

Any Fee System Would Result In Unfair Subsidy Of Bulk Carriers If Liner Carriers Have To Pay For Dredging To Depths Greater Than 45 Feet

Mr. Chairman, as liner carrier vessels do not draw 45 feet of water, any legislation which imposes or authorizes dredging fees on liner vessels should preclude liner carriers from paying for dredging to depths greater than 45 feet. Absent such a provision, no fee system would be a true "user fee" system. Instead, the system would produce the extremely unfair result of liner vessels subsidizing bulk carrier vessels because liner vessels would be paying towards dredging to depths needed only by bulk carriers.

S. 366 is highly objectionable to the liner carrier industry in part because it does not preclude such unfair subsidy of bulk carriers by liner operators. Specifically, we note that section 906(a)(1) of S. 366 would require that any fees imposed by a locality (to recover the non-Federal share of a dredging project) "reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel." We are deeply concerned that some ports will argue that 35 foot draft vessels "benefit" from 55 foot deep channels. Thus, this provision of S. 366 could well lead local ports to attempt to tax liner carriers for projects to dredge harbors to 50 or 55 foot depths, depths which are simply not needed by liner vessels.

Our fear is not hypothetical. Last year several ports specifically testified before the Congress that they should be able to impose user fees on liner carriers to finance the local share of the cost of dredging to depths not needed by liner vessels. Specifically, the ports suggested to the Congress that the entire port community, and even importers and exporters located far from ports, would benefit from very deep dredging projects (greater than 45 feet). Thus, the ports continued, if there is less than 100% Federal financing for these very deep draft projects, all members of the port community should be subject to taxation to support those projects. The particular "benefits" that were alleged to accrue to liner carriers from dredging to depths greater than 45 feet were employment and other increases in economic activity in the community and safety benefits.

We completely disagree that dredging to depths greater than 45 feet is required to meet any safety needs in ports. Coast Guard regulations already address safety considerations.

More importantly, it is clear that the possibility that a very deep draft dredging project would generate wide economic benefits in a community is not an argument for a user fee on liner carriers. Instead, it is an argument for 100% governmental funding. If the economic effects of a project in a community are expected to be significant and general, the local government should pay for it, expecting to gain a financial return from the increased tax revenues generated by the additional activity. Thus, allegations of broad economic benefits appear to us to avoid, rather than answer, the question of whether liner carriers benefit from deep draft dredging.

Simply, Mr. Chairman, the ability to identify truly specific benefits is what makes a "user fee" a "user fee". And, if specific benefits cannot be identified as accruing to a person from a project, it is unfair to tax that person for the project any more than the general public is taxed for the project. Sometimes the line between beneficiaries and non-beneficiaries, between direct beneficiaries and indirect beneficiaries, is hard to draw. However, Mr. Chairman, the line between dredging to depths greater than 45 feet (needed only by super colliers and large oil tankers) and the depth requirements of liner vessels (30-40 feet), is clear and easy to draw. Thus, the Congress should draw that line and not provide localities (or the Corps) license to conclude that vessels drawing 35 feet of water use depths greater than 45 feet, license which S. 366 and the Administration bill would improperly provide.

For these reasons, we would amend section 906(c) to add a new provision specifically precluding the imposition of fees on vessels which do not require 45 feet of water to recover costs associated with dredging to depths greater than 45 feet.

On a related point, we call to the Committee's attention that, of the two provisions of S. 366 addressing deep draft projects (sections 911 and 904), one of them, section 904, appears inconsistent with the Committee's intent that general cargo dredging be financed with a higher Federal share (70%) than deep draft projects (50% under section 911, 0% under section 904). Specifically, we note that section 911 properly establishes that, with respect to deep draft projects (deeper than 45 feet), any increment of construction to a depth of forty-five feet is to be treated as a general cargo project. See section 911(b)(3). Thus, section 911 properly reflects that the general cargo increment of a deep draft project should be financed with a greater Federal share than the increment of such a project which is deeper than 45 feet.

However, S. 366's alternate (to section 911) financing mechanism for deep draft projects, section 904, does not appear to include a provision comparable to section 911(b)(3). As presently drafted, if a port proceeds under section 904 with a construction project to deepen a harbor from 35 to 50 feet, the entire project, not just the dredging from 45 to 50 feet, might be treated as a deep draft project. Thus, section 904 particularly fails to reflect the public benefits of dredging to 45 feet or shallower depths. Further, under a section 904 project which includes an increment from a depth shallower than 45 feet to 45 feet, liner carriers could be taxed at a higher rate (to recover the higher local share) than would be the case for all other dredging to depths of 45 feet or shallower. Therefore, section 904 should be amended to include language comparable to section 911(b)(3).

We Particularly Oppose Ad Valorem Fees As Unfair And Inequitable

If liner carriers are to pay fees towards harbor dredging, those fees should not be calculated with reference to the value of cargo on board, but instead should be based on tonnage.

Liner carrier cargo, whether containerized, ro-ro, or break bulk, consists in very large part of finished and semifinished goods with per ton values many times that of bulk commodities. For example, we have estimated that liner cargo crossing the Atlantic (generally containerized cargo) in many U.S.-European trades has an average value of $3,500-$4,000 per ton. In contrast, the price of a ton of coal in recent years has been approximately $30.

Thus, the burden of any port "user" fee based on value of cargo would fall very heavily and disproportionately on liner carriers. One liner carrier vessel would be asked to generate as much in user fees as 100 comparably sized coal colliers. This clearly unfair result illustrates that the value of cargo has no causal relationship to the demand a vessel places on a port with respect to channel or harbor depth; that is strictly a function of the tonnage of a vessel. Consequently, adoption of an ad valorem scheme of port user fees would simply result in the subsidy of bulk carriers by liner carriers.

Further, the Administration has recognized that ad valorem fees raise serious legal and administrative problems. Thus, in testimony before the House Merchant Marine and Fisheries Committee on March 12, Acting Assistant Secretary Dawson said (page 4 of prepared statement):

> In addition to the problems associated with determination of the value of cargo, the General Agreement on Tariffs and Trade permits imposition of new fees commensurate with the cost of services rendered. Fees based on the cargo value would be very difficult to defend.

Thus, if the Congress should, despite our objections, enact legislation authorizing the imposition of fees on liner carriers, that legislation should explicitly preclude imposition of ad valorem fees, a preclusion not contained in S. 366 or the Administration's bill. [4]

We Particularly Oppose Federal User Fees

As explained above, the benefits of economic activity at ports serving ocean-going vessels are so broad that port dredging, particularly general cargo port dredging, should be fully Federally financed.

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[4] Of course, if the Subcommittee adopts the amendments suggested earlier in this statement, which would preclude the imposition of fees on vessels not requiring 45 feet of water, from the viewpoint of liner carriers the need for a specific amendment precluding ad valorem fees would be mooted.

If, however, it is determined that some portion of the costs of port dredging should be paid from sources other than Federal revenues, the Congress should supplement Federal revenues by requiring partial funding of projects by other governmental entities (states and localities), not by imposing Federal fees on private parties. Moreover, if Federal legislation should authorize local governments to impose fees to recover their share of project costs, it should not require that the state or local share be derived from port user fees. The appropriate state or local governmental entity should be able to make its own determination as to whether, in the interest of promoting its port and its state and local economy, it would raise the non-Federal share of project costs in whole or in part through other revenues.

Under such a statutory scheme, if local governmental authorities consider that a port dredging project is not so worthy as to deserve full support from general revenues and general taxpayers, but must be supported, at least in part, by port users, the decision by a port to have a project go forward would be subject to marketplace restraints. Specifically, if there is no demand by a class of port users in connection with such a project, the port would face some risk of lost patronage from those users. Thus, if a user fee at a port were so high as to actually reduce vessel patronage there, the vessels no longer calling at that port would not have to pay a fee at all -- a result which we consider to perfectly reflect the notion of "user" fees.

By contrast, under a Federal fee system such marketplace forces would not come into play; equal fees would be in place at every port. A Federal fee system, by preventing liner carriers from "voting with their feet," creates a very high risk that liner carriers, which serve numerous ports, will have to subsidize dredging of only a few ports. We note that S. 366 contemplates local, rather than Federal fees, and in that regard, S. 366 is less objectionable to us than it would be if it called for Federal fees.

Summary And Conclusion

In summary, liner carriers are opposed to the imposition of port user fees to finance harbor dredging (both improvement and maintenance dredging), particularly the dredging of general cargo port projects (projects to depths no greater than 45 feet). Moreover, while we generally oppose dredging fee proposals, some such proposals are far more objectionable -- and out and out unfair -- to liner carriers than others. In particular, if user fees are to be authorized to finance dredging to depths greater than 45 feet, such fees should not be imposed on liner carriers since they do not need those depths. Also, any fee system should prohibit ad valorem user fees and reject a Federal fee system in favor of a system which authorizes, but does not require, local fees.

Finally, taking these factors into account, we obviously strongly oppose the Administration's bill (and related budget proposal) and have very serious problems with S. 366.

That concludes our statement, Mr. Chairman, and we thank the Committee for the opportunity to submit it.

* * * *

Note: Inquiries should be directed to:

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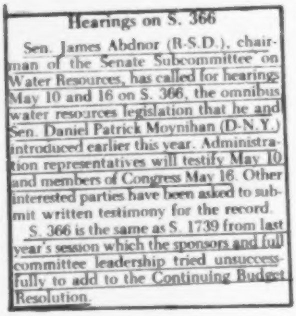
2033 K Street, N.W.
Washington, D.C. 20006
(202) 429-9090

Two Rivers Campsite Preservation Coalition
Quincy, Illinois

Earl B. Myers
1623 Gary Grove
Quincy, IL 62301
Secretary

May 10. 1985

The Honorable James Abdnor
Senate Office Building
Washington, D.C. 20510



Hearings on S. 366

Sen. James Abdnor (R-S.D.), chairman of the Senate Subcommittee on Water Resources, has called for hearings May 10 and 16 on S. 366, the omnibus water resources legislation that he and Sen. Daniel Patrick Moynihan (D-N.Y.) introduced earlier this year. Administration representatives will testify May 10 and members of Congress May 16. Other interested parties have been asked to submit written testimony for the record.

S. 366 is the same as S. 1739 from last year's session which the sponsors and full committee leadership tried unsuccessfully to add to the Continuing Budget Resolution.

I am enclosing written testimony for inclusion in above announced hearings of your subcommittee on Water Resources.

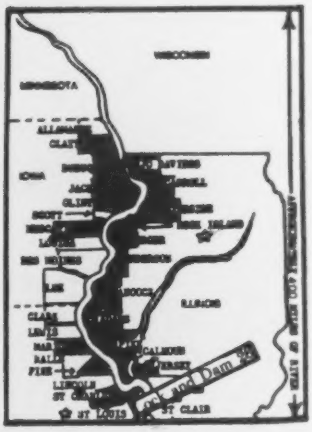
The Senate Environment and Public Works Committee can not ignor the some 2,000 other families who are destined to be kicked off the shorelines of the Upper Mississippi and Illinois Rivers while federal agencies - COE and FWS - pick and choose the privileged few they want to remain by the selling of federal shorelines and navigable waterways to certain families of their choice.

Thank you for consideration of this testimony. On behalf of those families who are being discriminated I remain.

Sincerely,

Earl Myers
Earl Myers
1623 Gary Grove
Quincy, Illinois 62301

cc: Robert Stafford
Dave Durenberger
Alan Dixon
Paul Simon



Allie Lymenstull (founder)________________ 1978

Two Rivers Campsite Preservation Coalition
Quincy, Illinois

Earl D. Myers
1623 Gary Grove
Quincy, IL 62301
Secretary

Dear Senator and Representative:

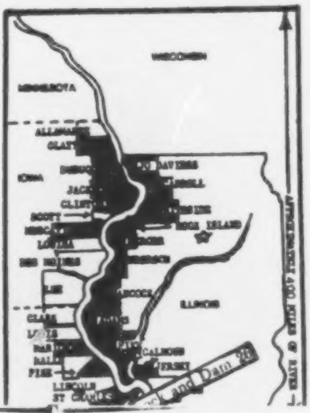
This booklet contains copies of county, federal and public records and is presented to you as evidence denoting [redacted] discrimination, ignoring federal navigation laws, complete disregard for federal open meeting laws and subsequent cover-up by two federal agencies - The U.S. Army Corps of Engineers and The Fish and Wildlife Service - in collaborating and cooperative posture of duping citizens and congress in efforts to get their MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION approved by Congress.

It also contains our three alternative proposals for action by the Congress, so that the legislative arm of the Federal Government can provide informed relief to citizens-taxpayers who have been excluded from equal consideration and fair treatment by the Federal agencies involved.

An exchange of 11 acres of federal shorelines (including 40 feet out into navigable waters of a major river) to over 75 privileged families for 142 acres of land (which our government had previously paid $9,048.20 for flowage easement) gives the appearance [redacted] of possible favoritism in exchange for endorsement of Master Plan by prestigious Minnesota-Wisconsin Boundary Area Commission. It also presents a challenge to the 99th Congress to make right the injustices left in the wake for some 2,000 senior citizens, Disabled American Veterans, veterans, nuns, and low to middle income families who have been discriminated against by being destined to be kicked off these same shorelines through an established time frame.

For several years the U.S. Army Corps of Engineers have been running up and down the river telling lessees and permittees [redacted] that they must get off federal shorelines by 1989 because Executive Order #11988 dictated that human habitation of the flood plain be discouraged as well as **private exclusive use of federal shorelines.**

During this same time frame the Corps of Engineers, in cooperation with the Fish & Wildlife Service, allowed over 75 families to obtain **private exclusive ownership of federal shorelines plus 40 feet out into navigable waters** along the same corridor where others were to be kicked off in 1989. The Corps of Engineers denied participation in these land exchanges until it was finally admitted that minimal participation did take place (EXHIBIT A). To relinquish jurisdiction of navigable waters (EXHIBIT B) and to imply this to be "minimal participation" is a gross understatement and possibly contrary to navigation laws as to who has the authority to dispense navigable waters.



The U.S. Army Corps of Engineers solicited support for their MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION and highly recognized the Minnesota-Wisconsin Boundary Area Commission in the final printing of this document (EXHIBIT C). Is it co-incidental that the Chairman of this prestigious Commission, Mary Swanger, was a recipient of these federal shorelines plus 40 feet out into navigable waters? This commission is also on record as supporting completion of Lock and Dam #26 and Mary Swanger is leading the support (EXHIBIT D). Mary Swanger was also the Co-chairman for the Public Participation Work Group of GREAT I STUDY - the forerunner to the MASTER PLAN FOR UPPER MISSISSIPPI RIVER -a study under the auspices of the U.S. Army Corps of Engineers.

Allie Lymenstull (founder). 1978

While the U.S. Army Corps of Engineers and the Fish & Wildlife Service were holding "Public Input" meetings in the St. Paul District sharing plans for said MASTER PLAN-LAND ALLOCATION for public reaction and input (January 10, 1983 in Winona, Minnesota and January 11, 1983 in LaCrosse, Wisconsin) not one word was mentioned by either of these two federal agencies regarding the plans to allow **federal shorelines plus 40 feet out into navigable waters** along Teepeeota Point in Wabasha County, Minnesota to become private exclusively owned. Yet, according to news release announcing this exchange "the Teepeeota Channel View Corporation had been negotiating with the FWS for several years" (EXHIBIT E). It was during this time frame as well that the COE and FWS held three day extensive meeting where no minutes or notes were recorded regarding land conflicts in Pool 4 where Teepeeota Point is located (EXHIBIT F). Government documents now prove that the offer for land exchange was made to the Teepeeota Channel View Corporation by the Fish & Wildlife Service on December 27, 1982 (two weeks before these public input meetings were held in the area (EXHIBIT G).

The news release announcing this land exchange continued to [redacted] magnify these [redacted] questionable activities by not divulging to the general public that 40 feet out into navigable waters was included. Instead, only the 40-50 feet tract of land is mentioned (EXHIBIT H). Is it co-incidental this news release was held 52 days after the land transaction was completed - which is about the same time that Mary Swanger's individual lot was being recorded in Wabasha County? The above 40-50 feet tract of land extending one mile equals only about 6 acres but, by adding the 40 feet out into navigable waters does it total 11 acres. Such information was purposely left out of the prepared news release.

It is also interesting to note that plate 26 of the Draft for Upper Mississippi River-Land Allocation dated September, 1982 (EXHIBIT I) distributed by U.S. Army Corps of Engineers for Public Input Meetings identifies, by color code, the shorelines along Teepeeota Point to be federal shorelines. Yet, the final MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION dated September, 1983 (EXHIBIT J) identifies these same shorelines to be private exclusive owned land and, according to county recorded deeds, the land was not **legally transferred** until September 12, 1983, (Book 165, Page 79, Recorder of Deeds Office, Wabasha County, Minnesota). Are we to believe that plate 26 of 66 plates was corrected and inserted in this 153 page document to be distributed in September, 1983 without [redacted] collaboration by these two federal agencies? This statement is made in lieu of the fact that a corrected deed was filed on March 27, 1984 to precisely identify the land at Teepeeota Point that was conveyed to private exclusive ownership (EXHIBIT K).

[redacted] [redacted] Discrimination is presented in EXHIBIT L. The U.S. Army Corps of Engineers have scared many older Americans into selling cottages, camps and clubhouses at far less than the fair market value because these citizens were told many times in recent years that **all leases and permits would be terminated in 1989 with no exceptions.** Some leases were terminated in the 1970's, including two elderly widows in Illinois. One was blind and had to give her cottage to demolition crew because she had no money to have the work done. The other used her life savings of $1500 to have cottage torn down and removed from federal shorelines. There are several families along the shorelines in Minnesota and Wisconsin who own land adjacent to strips of federal shorelines whose permits for stairways and boat docks are to be terminated. These families will be forced to drive 5 500 miles to a public use area to launch recreation boats and will not be allowed to tie boats to federal shorelines adjacent to their own land. The reason? "Executive Order #11988 discourages private exclusive use of federal lands." Yet, the U.S. Army Corps of Engineers have been selling strips of federal shorelines in their "pick and choose" method within the same pool where others are destined to be kicked off. These privileged individuals will be able to continue obtaining boat dock permits because, thanks to the U.S. Army Corps of Engineers, **they now own their shorelines.** They will have **private exclusive use** of what was federal shorelines.

Mr. C.H. Yetter, located south of Teepeeota Point in Pool 4, was able to purchase a strip of federal shoreline from the U.S. Army Corps of Engineers on November 8, 1983, (Book 165, Pate 179) EXHIBIT L. Yet, many families who are located between Mr. Yetter and the other 75 privileged families able to buy their shorelines from the Fish & Wildlife Service are destined to be kicked off these very same shorelines in 1989 under Executive Order #11988.

Other exhibits are enclosed for your perusal. Some present economical picture of counties who lose taxable income through such land transactions by federal agencies in addition to the deplorable thought that our government ends up buying land which it had already condemned and for which it has paid dearly for flowage easements, as was the case at Teepeeota Point in Wabasha County, Minnesota. In addition to the 75 families and Mr. Yetter, there were 25 other privileged families known as the Wabasha Trails End Corporation who were able to obtain private exclusive ownership of federal shorelines along this very same Teepeeota Point. There are, no doubt, other irregularities recorded in County Recorder Offices along this corridor but the evidence presented should warrant consideration and action by our Congress.

Even though we are envious of those being able to buy their shorelines, we bear no malice toward them. In fact, we are happy that they were able to open doors which should make it possible for all to enter.

It is not our intention to interfere with legislation currently before the House and Senate that offer several projects along the Inland Waterway System, but, we will not sit idly by while the U.S. Army Corps of Engineers continue to lobby in Washington for plans which do not include the many senior citizens, veterans and low to middle income families along this corridor whose lifestyles and values are destined to go by the wayside in 1989 or 2009. Therefore, in light of documented evidence presented that depicts [redacted] discrimination and possible illegal acts by the COE and FWS in cooperative posture, the following alternatives are proposed to make right these injustices.

1. That all current lessees have the opportunity to purchase leased federal shorelines at approximately the established precedent of $10 per running foot or acreage equivalent to what was paid at Teepeeota Point and Exhibit L ($475 for .04 acre).

   (a) All land purchased would automatically be subject to easements and flowage rights.

2. That all strips of federal shorelines under 40-50 feet in width be sold to adjacent property owners if the owner so desire as per precedent established in Exhibit L.

   (a) Automatic easements and flowage rights would remain as currently in force.

3. That the permit program be continued along federal shorelines as long as the permittee maintains personal property and surrounding environment in acceptable condition.

These three alternatives are well within the realm of recommendations to Senator Robert Stafford in a letter dated July 27, 1984 from Assistant Secretary of Army (Civil Works), Robert Dawson, related to these concerns along the Upper Mississippi River. It would not be unusual for our 99th Congress to introduce and pass such legislation as a means toward reducing our National Debt so highly publicized. Putting these federal properties back on the tax rolls, reducing COE administrative costs by eliminating lease program, and contin[illegible] economy along the river generated by lessees and permittees along this corridor could only be con[illegible]ued as good common sense. Besides, **the lands in question represent less than three percent (3%) of fed[illegible] shorelines along this corridor under the** jurisdiction of the U.S. Army Corps of Engineers.

Unless such a gesture becomes reality, the discrimination in allowing federal shorelines and navigable waters to become private exclusively owned by a selected few, such as was done at Teepeeota Point in Wabasha County, Minnesota will remain an open wound along this corridor for many years.

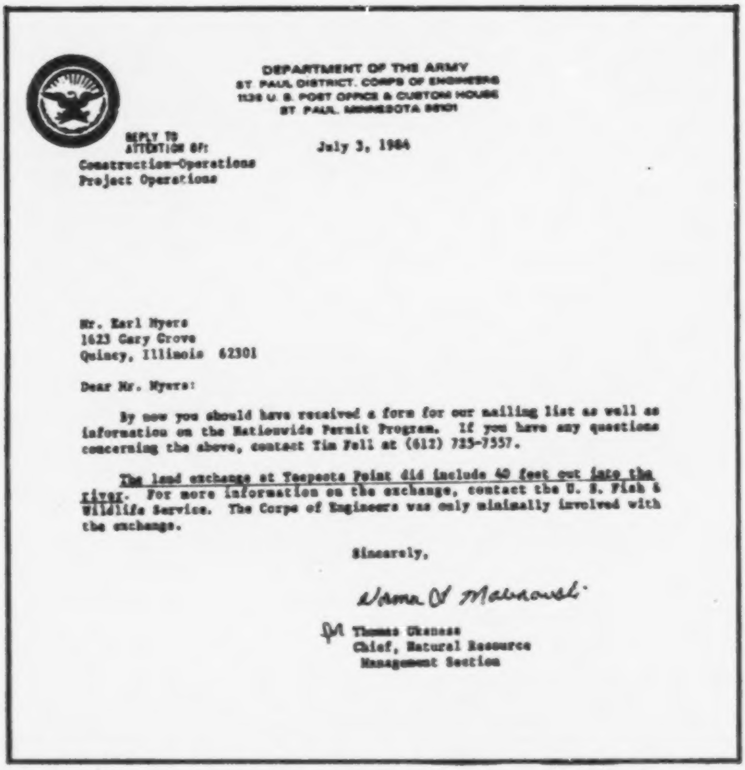
Thank you for considering the presented evidence. We shall anxiously await a positive action from our 99th Congress to correct the injustice perpetrated by these federal agencies.

Sincerely,

Earl D. Myers

Earl D. Myers
1623 Gary Grove
Quincy, Illinois 62301

Exhibit A



DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
1135 U. S. POST OFFICE & CUSTOM HOUSE
ST. PAUL, MINNESOTA 55101

REPLY TO
ATTENTION OF:
Construction-Operations
Project Operations

July 3, 1984

Mr. Earl Myers
1623 Gary Grove
Quincy, Illinois 62301

Dear Mr. Myers:

By now you should have received a form for our mailing list as well as information on the Nationwide Permit Program. If you have any questions concerning the above, contact Tim Fell at (612) 725-7557.

The land exchange at Teepeota Point did include 40 feet out into the river. For more information on the exchange, contact the U. S. Fish & Wildlife Service. The Corps of Engineers was only minimally involved with the exchange.

Sincerely,

Norma J Malinowski

Thomas Ukaness
Chief, Natural Resource
Management Section

The meer fact that the U.S. Army Corps of Engineers participated in the land exchange at Teepeeota Point denotes a shirking of their responsiblity and jurisdiction over "navigable waters" of the United States.

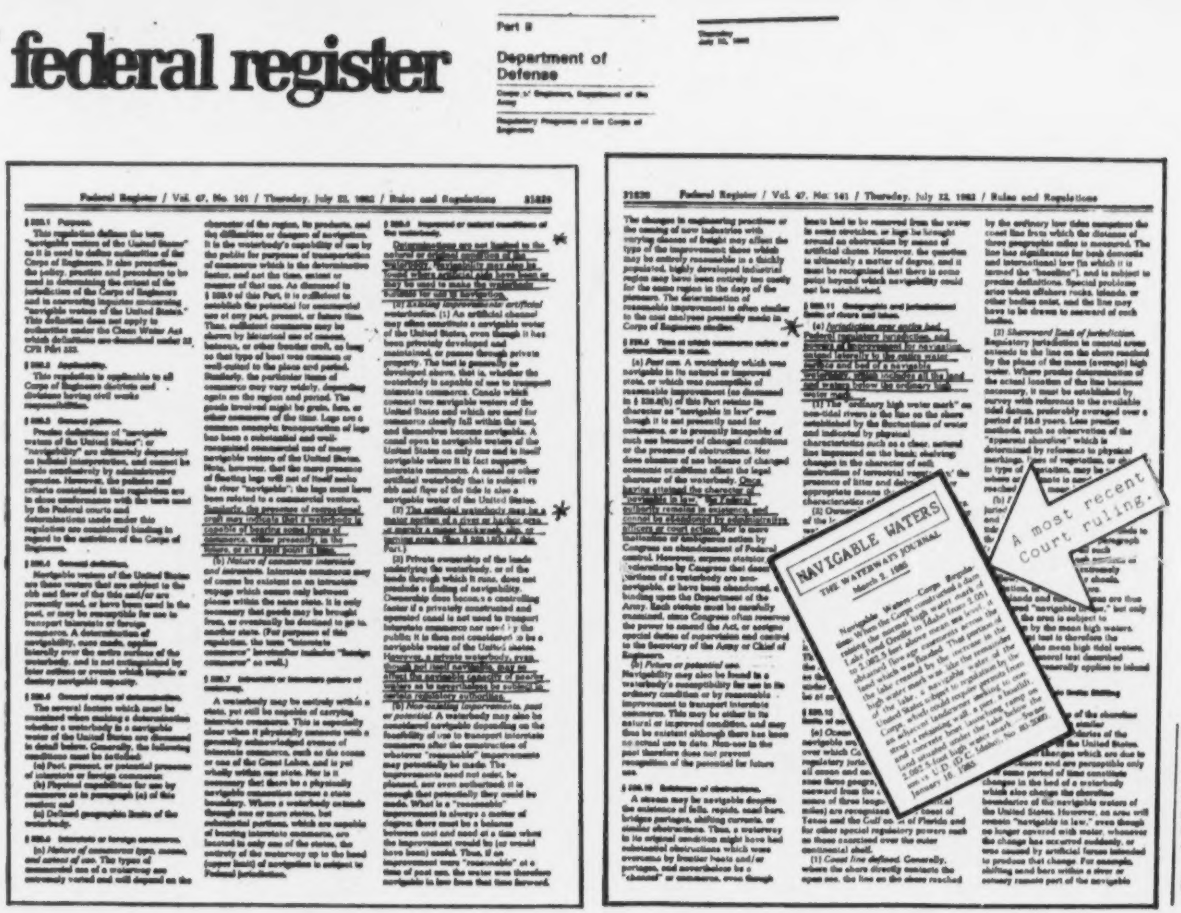
The statement "The Corps of Engineers was only minimally involved with the land exchange" is absolutely unacceptable by the some 2,000 Senior Citizens, Widows, Nuns, Crippled American Veterans and Low to Middle Income Families destined to be kicked off these shorelines and warrants a full investigation by Congress.

According to Section 329.9 on Page 31830 of Federal Register:

> "ONCE HAVING ATTAINED THE CHARACTER OF 'NAVIGABLE IN LAW' THE FEDERAL AUTHORITY REMAINS IN EXISTENCE, AND CAN NOT BE ABANDONED BY ADMINISTRATIVE OFFICERS OR COURT ACTION."

The fact that these lessees paid annual dock permit fees before obtaining private exclusive ownership of federal shorelines is evidence that this waterway had attained the character of 'Navigable in Law.'

Exhibit B



federal register

Part II

Department of Defense

Corps of Engineers, Department of the Army

Regulatory Programs of the Corps of Engineers

Federal Register / Vol. 47, No. 141 / Thursday, July 22, 1982 / Rules and Regulations 31829

31830 Federal Register / Vol. 47, No. 141 / Thursday, July 22, 1982 / Rules and Regulations

A most recent Court ruling.

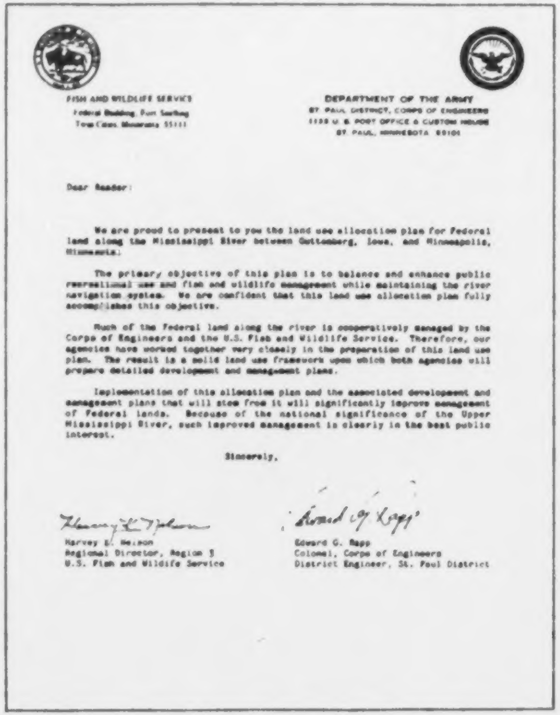
NAVIGABLE WATERS

THE WATERWAYS JOURNAL
March 2, 1985

Navigable Waters—Corps Regulation: When the Corps constructed a dam raising the normal high water mark of Lake Pend Oreille in Idaho from 2,051 to 2,062.5 feet above mean sea level, it obtained flowage easements across the land which was flooded. That portion of the lake created by the increase in the high water mark was like the remainder of the lake, a navigable water of the United States subject to regulation by the Corps, which could require permits from an adjacent landowner seeking to construct a retaining wall, a pier, a boatlift, and concrete boat launching ramp on land situated under the lake below the 2,062.5-foot high water mark.—Sweeney vs U.D. (D.C. Idaho), No. 83-2080, January 18, 1985.

Exhibit C

ACKNOWLEDGEMENTS



FISH AND WILDLIFE SERVICE
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
1135 U.S. POST OFFICE & CUSTOM HOUSE
ST. PAUL, MINNESOTA 55101

Dear Reader:

We are proud to present to you the land use allocation plan for Federal land along the Mississippi River between Guttenberg, Iowa, and Minneapolis, Minnesota.

The primary objective of this plan is to balance and enhance public recreational use and fish and wildlife management while maintaining the river navigation system. We are confident that this land use allocation plan fully accomplishes this objective.

Much of the Federal land along the river is cooperatively managed by the Corps of Engineers and the U.S. Fish and Wildlife Service. Therefore, our agencies have worked together very closely in the preparation of this land use plan. The result is a solid land use framework upon which both agencies will prepare detailed development and management plans.

Implementation of this allocation plan and the associated development and management plans that will stem from it will significantly improve management of Federal lands. Because of the national significance of the Upper Mississippi River, such improved management is clearly in the best public interest.

Sincerely,

Harvey K. Nelson
Regional Director, Region 3
U.S. Fish and Wildlife Service

Edward G. Rapp
Colonel, Corps of Engineers
District Engineer, St. Paul District

ACKNOWLEDGEMENTS

This document was prepared by the Public Use Planning Section of the St. Paul District, Corps of Engineers, and is the result of a team effort involving the cooperation and close coordination of many disciplines and agencies. Special thanks go to those staff who actively participated from the following offices and/or agencies.

St. Paul District, Corps of Engineers

- Public Use Planning Section
- Natural Resources Management Section
- Office of Counsel
- Environmental Resources Branch
- Reports and Communications Branch
- La Crescent Field Office (Resource Management)

Region 3, U.S. Fish and Wildlife Service

- Upper Mississippi National Wildlife and Fish Refuge Office Headquarters
- Area Office - Mississippi River
- North Central Region Office

State Agencies

- Wisconsin Department of Natural Resources
- Minnesota Department of Natural Resources
- Iowa Conservation Commission

Regional Advising Agency

- Minnesota-Wisconsin Boundary Area Commission

Local Governmental Agencies

Sincere thanks also go to the many members of the general public who participated in the preparation of this document by attending the public workshops and meetings and by providing comments and other valuable contributions.

The above joint letter and acknowledgement appears on the first page of the Upper Mississippi River MASTER PLAN FOR LAND USE ALLOCATION distributed in September, 1983. The actual size of original page is 11 by 17 inches and has been reduced for inclusion in this documentation.

MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION
619 SECOND STREET, HUDSON, WISCONSIN 54016
Serving Our Sponsor States on the St. Croix and Mississippi Rivers since 1965

IN CASE YOU SHOULD ASK, WE'D LIKE TO ANSWER SOME QUESTIONS FOR YOU...

WHAT IS THE BOUNDARY AREA COMMISSION? The Commission is a ten-member citizen organization operating under an Interstate Compact adopted in 1965 by the State Legislatures and Governors of Minnesota and Wisconsin. It is an advisory body devoted entirely to promoting and coordinating wise use, development and protection of the Minnesota-Wisconsin border segments of the Upper Mississippi and Saint Croix Rivers.

WHO ARE THE BOUNDARY AREA COMMISSIONERS? The current members, appointed by the Governor of their State, are:

Minnesota	Wisconsin
* Mary Swanger, Wabasha - Chairman	William Howe, Prairie du Chien - V. Chm.
Goodwin Anderson, Saint Paul	Marian Anderson, Nelson
Charles Arnason, Marine-on-St. Croix	Sandra Berg, Hudson - Secretary-Treas.
W. Wayne Smith, Winona	Frederick Funk, Onalaska
(Vacancy)	Owen Williams, Amery

WHAT HAS THE COMMISSION ACCOMPLISHED FOR

- Organized the first ... the rivers in 1968
- Revealed plans of ... National Wildlife ... Regional Director ... require land trade ... refuge land in the ...
- Organized successful ... popular Lower St. Cr... unprecedented local ... Master Plan now in ef...
- Initiated traffic and ... common watercraft reg... now regarded as the ... Riverway.
- Provided chairman and ... Saint Croix Management Commissions comprised ... officials - an ongoing coordination task.
- * Took initiative amidst court battle over Mississippi Channel dredging in 1974 to obtain Congressional funding and authorization for highly-regarded GREAT River Studies from Minneapolis to beyond Saint Louis, Missouri - cooperative effort of State and Federal personnel led to major changes in channel maintenance techniques and pinpointed primary problem areas for corrective efforts. (Wisconsin Law was amended last April to accommodate new procedures; the bill was introduced by request of the Commission.)
- * Served as principal technical advisor to Congressional leaders from both States to provide proper format for preparation of Upper Mississippi River System Master Plan now under consideration by Congress - avoided creation of duplicative "River System Council" when Upper Mississippi River Basin Commission already existed to do the job.

HOW IS THE WORK OF THE COMMISSION SUPPORTED? As a joint venture of the two cooperating State governments, most of the cost of promoting wise use, development and protection of the rivers is borne by Legislative appropriations. However, as a citizen commission, it is also able to receive donations, gifts and grants from any group or person who believes in the remarkable values of our great resources. With State budgets being downgraded, the Commission is actively inviting public support.

On Nov. 9, 1981 at Public Meeting in Roseville, Minnesota held by the Upper Mississippi River Basin Commission and recorded in the Comprehensive Master Plan for the Management of the Upper Missisipi River System dated January 1, 1982, Mary Swanger introduced herself as "Co-chairman for the Public Participation Work Group of GREAT I STUDY. Presently, I serve with the Minnesota Boundary Area Commission as its Chairman." This statement is recorded on page 557 of said document.

GREAT I was also under auspices of the U.S. Army Corps of Engineers.

Unit fears Mississippi habitat bill may get stuck in 'mud'

Exhibit D

THE WATERWAYS JOURNAL
December 22, 1984

Commission Continuing To Support River Bill

The Minnesota Wisconsin Boundary Area Commission will continue working for a bill that recognizes a 1982 plan as a model for future water policy on the upper Mississippi River.

The measure authorizes programs recommended by the 1982 GREAT River Resource Management study. In addition to recognizing this plan as a guide for future water policy on this section of the river, it also is designed to protect fish and wildlife habitat interests along the river.

Rep. Steven Gunderson (R-Wis.) wants to reintroduce the bill in the next session. It was stymied along with several other water bills in the last days of the Senate session after earlier being approved as part of the Omnibus Waterways Bill by the House of Representatives.

Construction of a second lock at Lock and Dam 26 in Alton, Ill., is one of the revisions the commission included in the bill before voting recently to continue its effort to have the bill approved.

Exhibit D

Transfer of shoreline property to Phanis W. and Mary Swanger is found in Book D165 Page 550 WABASHA COUNTY RECORDER'S OFFICE Wabasha, Minnesota. Date of transfer was Nov 10, 1983.

A $2.20 real estate stamp identifies that this 100+ strip of shoreline plus 40ft out into navigable waters cost the Swangers less than $1,000.

Exhibit E

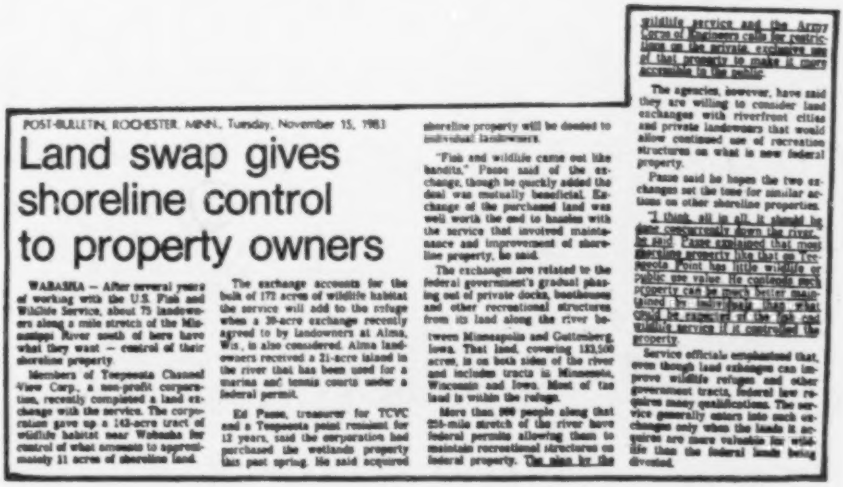
The below news article of November 15, 1983 announces the land exchanges at Teepeeota Point in Wabasha County, Minnesota. The first sentence is evidence that meetings and/or communications were taking place for several years and during the time frame in which these two federal agencies- COE and FWS- were holding "Public Input" meetings in the area on Jan 10, 11 and 12, 1983. The purpose for these "Public Input" meetings was to share with the general public that which was intended for the land adjacent to the river and to receive input into these plans. NOTHING WAS MENTIONED TO THE GENERAL PUBLIC ABOUT THE PLANS TO ALLOW THESE SHORELINES TO BECOME PRIVATE EXCLUSIVELY OWNED BY LESSEES OF THE FWS. ESPECIALLY, NOTHING WAS SAID ABOUT THE 40 FEET OUT INTO THE NAVIGABLE WATERS OF THE MISSISSIPPI RIVER.......and to this date, January 31, 1985 it has not been publicly announced that navigable waters were included in the land exchanges at Teepeeota Point.

The economics of these land exchanges are most suspect as well. According to one lessee, who became a landowner along Teepeeota Point, he/she really made out through the exchange. The land they obtained was 50ft by 80ft plus the 40ft out into the river. The $1120 they paid figures out to be $14 a running foot of shoreline. Their boat dock permit that use to cost $30 a year was going to be increased to $100 a year beginning in 1985. But, as a result of now owning the shoreline plus 40 ft out into the river, they are no longer required to obtain the dock permit or other regulatory permits that others must obtain.

Other permittees along Teepeeota Point and other shorelines who are faced with these increases will, in ten years, have paid the federal government $1,000 and will still be destined to be kicked off these shorelines. In essence, the land exchanges at Teepeeota Point over the spand of ten years will not have cost members of the Teepeeota Channel View Corporation a single penny through the intended increases from which they became exempt.

YOU BE THE JUDGE! Has our government, through these coactive maneuvers by the Corps of Engineers and Fish & Wildlife Service, been fair to all citizens along the river?

THE CORPS OF ENGINEERS PAID DEARLY TO OBTAIN SUPPORT FOR THEIR MASTER PLAN FROM THE MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION - A MOST PRESTIGIOUS COMMISSION.



POST-BULLETIN, ROCHESTER, MINN., Tuesday, November 15, 1983

Land swap gives shoreline control to property owners

WABASHA — After several years of working with the U.S. Fish and Wildlife Service, about 75 landowners along a mile stretch of the Mississippi River south of here have what they want — control of their shoreline property.

Members of Teepeeota Channel View Corp., a non-profit corporation, recently completed a land exchange with the service. The corporation gave up a 143-acre tract of wildlife habitat near Wabasha for control of what amounts to approximately 11 acres of shoreline land.

The exchange accounts for the bulk of 172 acres of wildlife habitat the service will add to the refuge when a 30-acre exchange recently agreed to by landowners at Alma, Wis., is also considered. Alma landowners received a 21-acre island in the river that has been used for a marina and tennis courts under a federal permit.

Ed Passe, treasurer for TCVC and a Teepeeota point resident for 12 years, said the corporation had purchased the wetlands property this past spring. He said acquired shoreline property will be deeded to individual landowners.

"Fish and wildlife came out like bandits," Passe said of the exchange, though he quickly added the deal was mutually beneficial. Exchange of the purchased land was well worth the end to hassles with the service that involved maintenance and improvement of shoreline property, he said.

The exchanges are related to the federal government's gradual phasing out of private docks, boathouses and other recreational structures from its land along the river between Minneapolis and Guttenberg, Iowa. That land, covering 183,500 acres, is on both sides of the river and includes tracts in Minnesota, Wisconsin and Iowa. Most of the land is within the refuge.

More than 900 people along that 250-mile stretch of the river have federal permits allowing them to maintain recreational structures on federal property. The plan by the wildlife service and the Army Corps of Engineers calls for restrictions on the private, exclusive use of that property to make it more accessible to the public.

The agencies, however, have said they are willing to consider land exchanges with riverfront cities and private landowners that would allow continued use of recreation structures on what is now federal property.

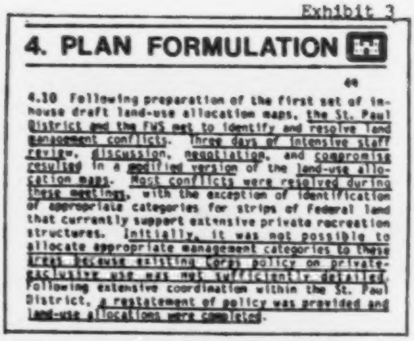
Passe said he hopes the two exchanges set the tone for similar actions on other shoreline properties.

"I think, all in all, it should be done concurrently down the river," he said. Passe explained that most shoreline property like that on Teepeeota Point has little wildlife or public use value. He contends such property can be much better maintained by individuals than what could be expected of the fish and wildlife service if it controlled the property.

Service officials emphasized that, even though land exchanges can improve wildlife refuges and other government tracts, federal law requires many qualifications. The service generally enters into such exchanges only when the lands it acquires are more valuable for wildlife than the federal lands being divested.

Exhibit F

Exhibit 3

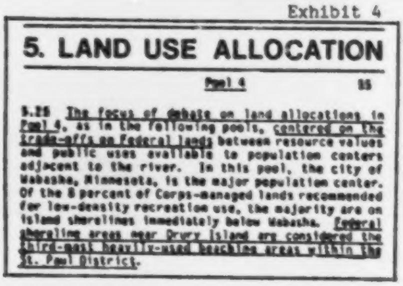


4. PLAN FORMULATION

49

4.10 Following preparation of the first set of in-house draft land-use allocation maps, the St. Paul District and the FWS met to identify and resolve land management conflicts. Three days of intensive staff review, discussion, negotiation, and compromise resulted in a modified version of the land-use allocation maps. Most conflicts were resolved during these meetings, with the exception of identification of appropriate categories for strips of Federal land that currently support extensive private recreation structures. Initially, it was not possible to allocate appropriate management categories to these areas because existing Corps policy on private-exclusive use was not sufficiently detailed. Following extensive coordination within the St. Paul District, a restatement of policy was provided and land-use allocations were completed.

Exhibit 4



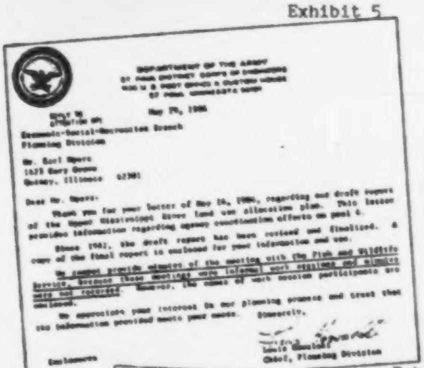
5. LAND USE ALLOCATION

Pool 4

55

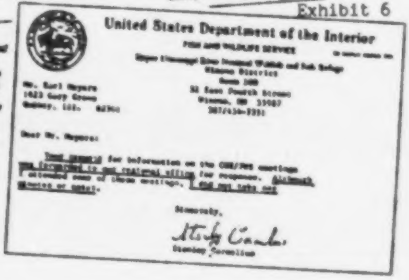
5.25 The focus of debate on land allocations in Pool 4, as in the following pools, centered on the trade-offs on Federal lands between resource values and public uses available to population centers adjacent to the river. In this pool, the city of Wabasha, Minnesota, is the major population center. Of the 8 percent of Corps-managed lands recommended for low-density recreation use, the majority are on island shorelines immediately below Wabasha. Federal shoreline areas near Drury Island are considered the third-most heavily-used beaching areas within the St. Paul District.

Exhibit 5



Chief, Planning Division

Exhibit 6



United States Department of the Interior

Sincerely,

Stanley Cornelius

Letter was cut and reassembled for reasons of space but all wording is included and in order as originally typed.

Underlines were added for emphasis.

Exhibits 3 and 4 are photo copies taken from pages 49 and 55 of the draft for the MASTER PLAN FOR UPPER MISSISSIPPI RIVER-Land Use Allocation distributed by the St. Paul District COE in September, 1982. Teepeeota Point, where over 100 FWS lessees were able to obtain private exclusive ownership of federal shorelines plus 40 feet out into navigable waters, is located in pool 4.

According to letter on file from COE these "three days of extensive staff review, discussion, negotiation, and compromise" took place on the dates of June 8, 9, 15 and 16 of 1982. That is, they believe it was on these dates (letter from D. Toedter 1-3-85).

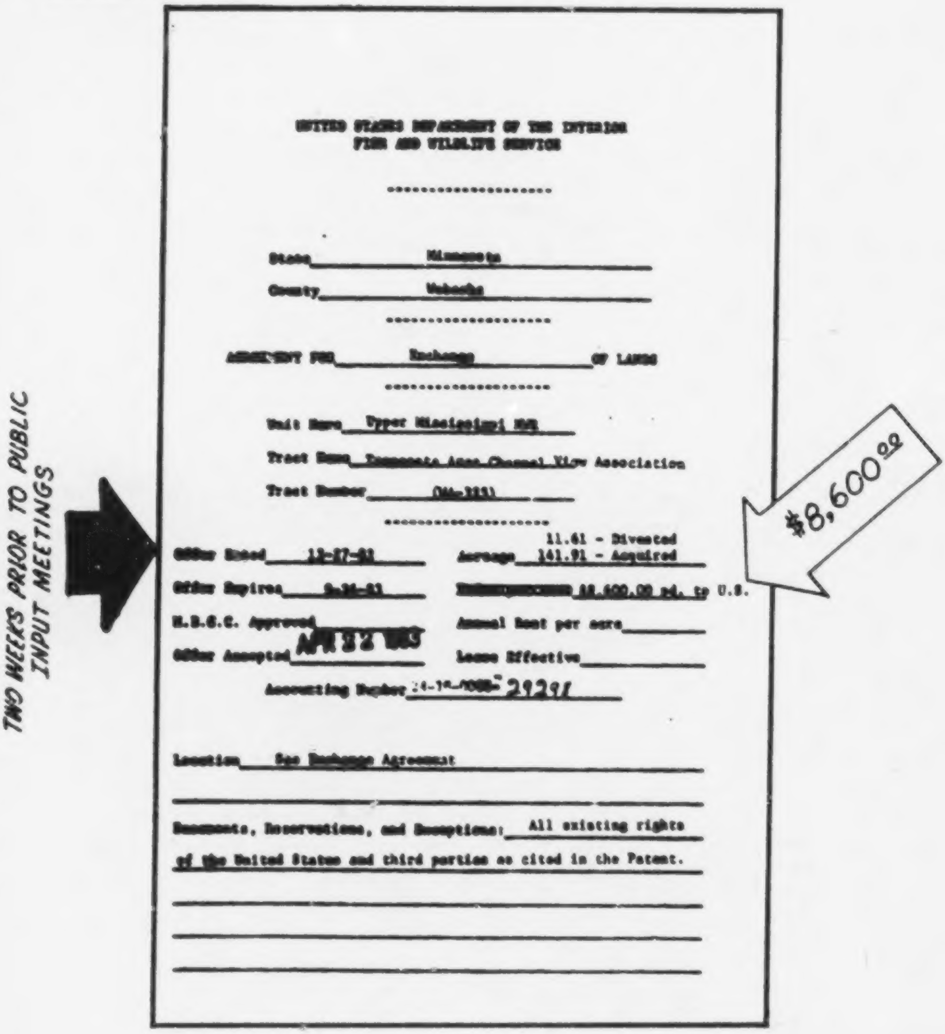
It is beyond comprehension that written documentation by either Federal agency was not recorded when the lead sentence in Exhibit 4 states "The focus on debates on land allocations in Pool 4 centered on the trade-offs on Federal lands, etc." Such language as "resolve land management conflicts, review, discussion, negotiation, trade-offs, compromise, restatement of policy, etc." highlighting these three days of intensive staff meeting demands that some documentation be recorded for the protection of each agency and for the protection of our federal government.

Yet, when inquiry is made to both federal agencies requesting information regarding the meeting, both agencies state, "there were no minutes or notes recorded (Exhibit 5 & 6). Both agencies could identify to the person the thirteen staff, 8 COE - 5 FWS, who attended. The District Supervisor, Stanley Cornelius, in whose district covers Teepeeota Point in Pool 4 attended the meeting, found it necessary to forward request on to the regional office for response. Was Mr. Cornelius afraid to disclose what took place regarding "conflicts, negotiations or trade-offs" pertaining to his district and particularly that of shorelines and navigable waters along Teepeeota Point in Pool 4? Especially, when these "conflicts, negotiations, trade-offs, compromises and restatement of policies" would not be divulged in public input meetings to be held in his area within 6 months?

During this time frame public opposition was growing against ridiculous COE plans that would govern the coming and going of recreationists along the river. Termination of leases and boat docks that occupy less than 5% of federal shorelines is drawing the attention of elected congressmen and congressladies along this 500 mile corridor. IT WOULD BE CATASTROPHIC IF WORD GOT OUT THAT 100 PRIVILEGED LESSEES WERE BEING ALLOWED TO OBTAIN PRIVATE EXCLUSIVE OWNERSHIP OF FEDERAL SHORELINES PLUS NAVIGABLE WATERS WHEN OTHERS WERE DESTINED TO BE KICKED OFF THESE VERY SAME SHORELINES.

If Mr. Cornelius did not take notes or minutes at these meetings then why did he not just state this (period)? Why was it necessary to forward the request to his regional office some 150 miles away?

Exhibit G



UNITED STATES DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE

State Minnesota

County Wabasha

AGREEMENT FOR Exchange OF LANDS

Unit Name Upper Mississippi NWR

Tract Name [illegible] Channel View Association

Tract Number [illegible]

Offer Dated [illegible]

Acreage 11.61 - Divested / 141.91 - Acquired

Offer Expires [illegible]

[illegible] $8,600.00 pd. to U.S.

M.B.C.C. Approved

Annual Rent per acre

Offer Accepted APR 22 1983

Lease Effective

Accounting Number [illegible]-29291

Location See Exchange Agreement

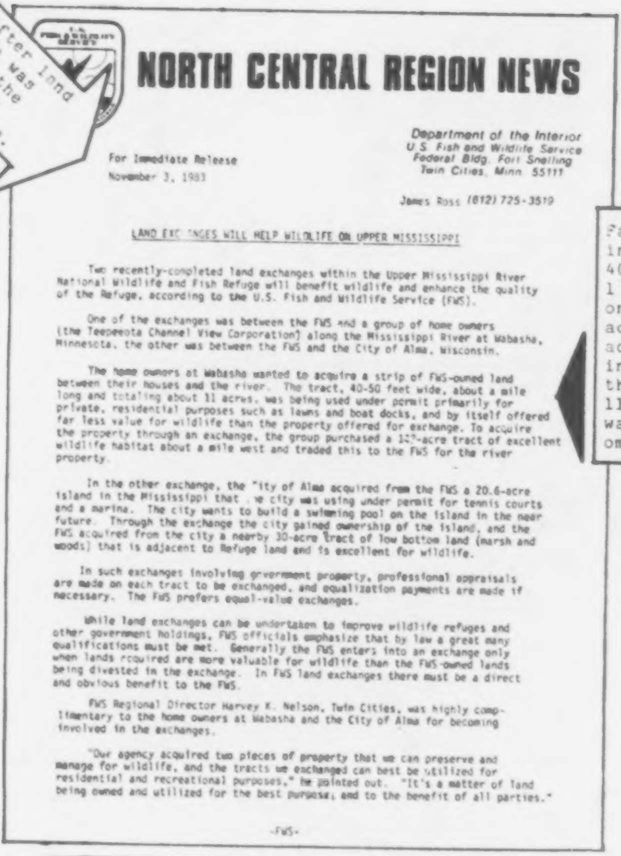
Easements, Reservations, and Exceptions: All existing rights of the United States and third parties as cited in the Patent.

TWO WEEKS PRIOR TO PUBLIC INPUT MEETINGS

$8,600.00

Exhibit H

52 days after land transaction was recorded at the Wabasha County Recorders Office.



NORTH CENTRAL REGION NEWS

For Immediate Release
November 3, 1983

Department of the Interior
U.S. Fish and Wildlife Service
Federal Bldg. Fort Snelling
Twin Cities, Minn. 55111

James Ross (612) 725-3519

LAND EXCHANGES WILL HELP WILDLIFE ON UPPER MISSISSIPPI

Two recently-completed land exchanges within the Upper Mississippi River National Wildlife and Fish Refuge will benefit wildlife and enhance the quality of the Refuge, according to the U.S. Fish and Wildlife Service (FWS).

One of the exchanges was between the FWS and a group of home owners (the Teepeeota Channel View Corporation) along the Mississippi River at Wabasha, Minnesota, the other was between the FWS and the City of Alma, Wisconsin.

The home owners at Wabasha wanted to acquire a strip of FWS-owned land between their houses and the river. The tract, 40-50 feet wide, about a mile long and totaling about 11 acres, was being used under permit primarily for private, residential purposes such as lawns and boat docks, and by itself offered far less value for wildlife than the property offered for exchange. To acquire the property through an exchange, the group purchased a 142-acre tract of excellent wildlife habitat about a mile west and traded this to the FWS for the river property.

In the other exchange, the City of Alma acquired from the FWS a 20.6-acre island in the Mississippi that the city was using under permit for tennis courts and a marina. The city wants to build a swimming pool on the island in the near future. Through the exchange the city gained ownership of the island, and the FWS acquired from the city a nearby 30-acre tract of low bottom land (marsh and woods) that is adjacent to Refuge land and is excellent for wildlife.

In such exchanges involving government property, professional appraisals are made on each tract to be exchanged, and equalization payments are made if necessary. The FWS prefers equal-value exchanges.

While land exchanges can be undertaken to improve wildlife refuges and other government holdings, FWS officials emphasize that by law a great many qualifications must be met. Generally the FWS enters into an exchange only when lands acquired are more valuable for wildlife than the FWS-owned lands being divested in the exchange. In FWS land exchanges there must be a direct and obvious benefit to the FWS.

FWS Regional Director Harvey K. Nelson, Twin Cities, was highly complimentary to the home owners at Wabasha and the City of Alma for becoming involved in the exchanges.

"Our agency acquired two pieces of property that we can preserve and manage for wildlife, and the tracts we exchanged can best be utilized for residential and recreational purposes," he pointed out. "It's a matter of land being owned and utilized for the best purpose, and to the benefit of all parties."

-FWS-

False & misleading statement. 40-50 feet wide, 1 mile long is only about 6+ acres. Only by adding 40 ft out into river does this total about 11 acres. This was purposely omitted.

In essence, our government paid twice for 142 acres.

In the 1930's $9,048.20 was paid to Andrew Binner and Anne Budde for flowage easements over these 142 acres. The Fish & Wildlife habitat were already protected by by this action. According to documents presented elsewhere in this evidence, the stated price on legal deeds shows $8,600 was paid by the FWS for this land.

Exhibit I

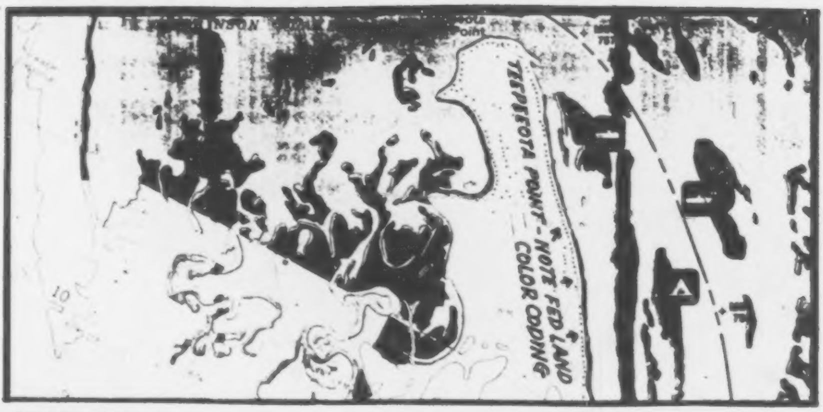
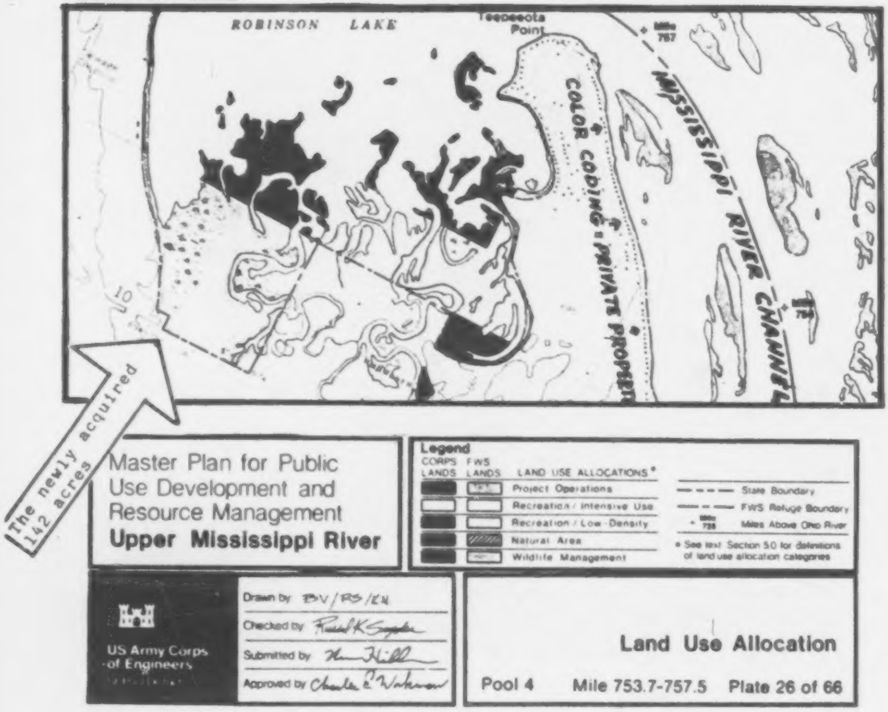

ROBINSON LAKE
Point
757
TEEPEEOTA POINT - NOTE FED LAND
COLOR CODING
10

Exhibit J


ROBINSON LAKE
Teepeeota Point
Mile 757
COLOR CODING = PRIVATE PROPERTY
MISSISSIPPI RIVER CHANNEL
756
10
The newly acquired 142 acres

Master Plan for Public
Use Development and
Resource Management
Upper Mississippi River

Legend

CORPS LANDS	FWS LANDS	LAND USE ALLOCATIONS*
■	▨	Project Operations
☐	☐	Recreation / Intensive Use
■	☐	Recreation / Low-Density
■	▨	Natural Area
■	☐	Wildlife Management

— — — — State Boundary
—— – —— FWS Refuge Boundary
+ Mile 738 Miles Above Ohio River

* See text Section 5.0 for definitions of land use allocation categories

US Army Corps of Engineers

Drawn by BV/RS/KN
Checked by Russell K Snyder
Submitted by
Approved by Charles E. Wakeman

Land Use Allocation

Pool 4 Mile 753.7-757.5 Plate 26 of 66

EXHIBIT I represents a segment of Plate 26 that is found in the Draft-UPPER MISSISSIPPI RIVER-LAND USE ALLOCATION PLAN-Master Plan for Public Use Developement and Resource Management Part I & Part II dated September, 1982. Distributed by the St. Paul District COE.

The darkened water area in Exhibit I is because this section was used previously and was reassembled. Per letter St. Paul COE in April, 1985 no extra copies of draft are available and therefore this patch job. Other than this discrepancy, these maps represent reproductions of original copies distributed by COE.

EXHIBIT J represents this same segment found in the final UPPER MISSISSIPPI RIVER LAND USE ALLOCATION PLAN dated September, 1983. Distributed by the St. Paul District COE.

The evidence presented in Exhibits I and J represents a continuation of previous "cover up" to dupe citizens along the river and Congress because Exhibit J is the final document - THE MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION.

Exhibit I was presented at Public Input meetings in the area on January 10, 11 and 12, 1983 and shows the land along shorelines of Teepeeota Point as land belonging to the United States-FWS. The offer to trade these shorelines (11 acres) to the Teepeeota Channel View Corporation for 142 acres about a mile west was made December 27, 1982 by the FWS as shown in Exhibit G. Yet, nothing was said at Public Input meetings by either federal agency about the offer and intent for these shorelines to become private exclusively owned. By this lack of information, citizens were led to believe these shorelines would remain federally owned and, therefore, subject for public use.

The transactions of the land exchange at Teepeeota Point was not completed until September 12, 1983 (Supposedly) Book 165, Page 79, Wabasha County Recorders Office, which is the date the 11.63 acres of federal shoreline was deeded to the Teepeeota Channel View Corporation. Yet, the MASTER PLAN (EXHIBIT J) dated September, 1983 already has these 11.63 acres identified as private exclusively owned shorelines and the 142 acres about a mile to the west as FWS land.

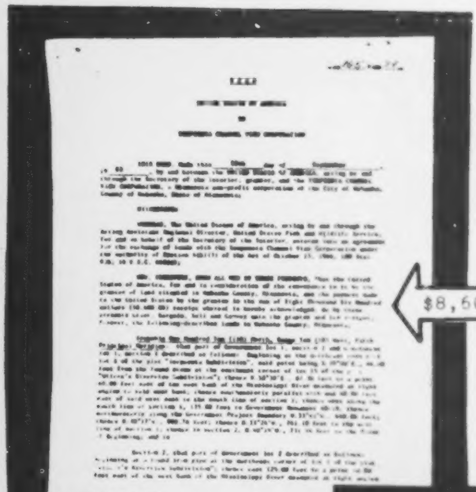
ARE WE TO BELIEVE THAT THIS 153 PAGE DOCUMENT (87 pages plus 66 plate maps) KNOWN AS THE MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION WAS CORRECTED, ASSEMBLED AND DISTRIBUTED TO ITS MANY DESTINATIONS BY SEPTEMBER, 1983?

Keep in mind the U.S. Army Corps of Engineers are "professional engineers" and at the three day meeting previously held by these two federal agencies-FWS & COE-words and phrases such as "identify and resolve land management conflicts, review, discussion, negotiation, compromise, trade-offs on federal lands" demands that some caution be taken by both federal agencies in future land deals. Did the Corps of Engineers check the deeds before identifying these transactions on color schemed plates to be the final document of THE MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION?

Evidently this was not done because a corrected deed was entered March 27, 1984 in Book 165, Page 460 at the Recorder of Deeds, Wabasha County, Minnesota to "correctly state the description of said lands conveyed by said grantor to the Teepeeota Channel View Corporation"(EXHIBIT K). AND YET, THE ST. PAUL DISTRICT COE HAD THESE SHORELINES IDENTIFIED AS PRIVATE EXCLUSIVELY OWNED SHORELINES IN A GOVERNMENT DOCUMENT DATED SEPTEMBER, 1983 AS ATTESTED TO BY EXHIBIT J.

The cooperative "cover up" by these two federal agencies was a continuing deception.

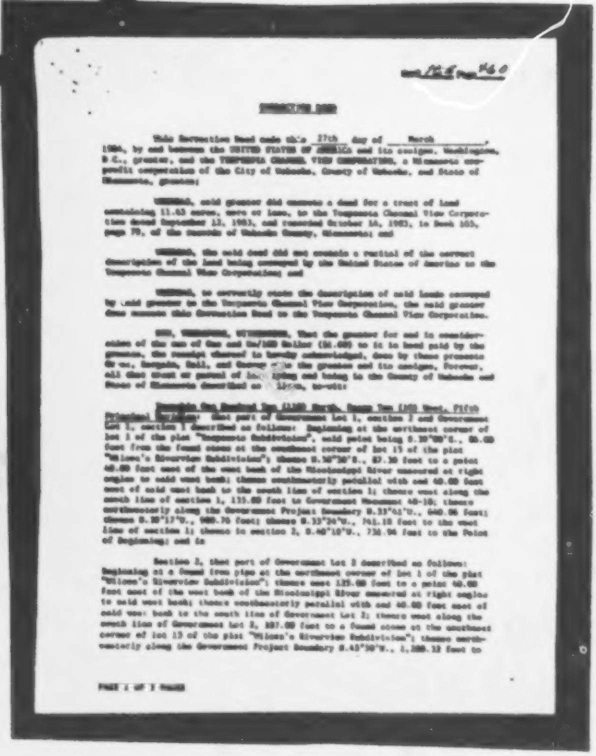
Exhibit K



$8,600

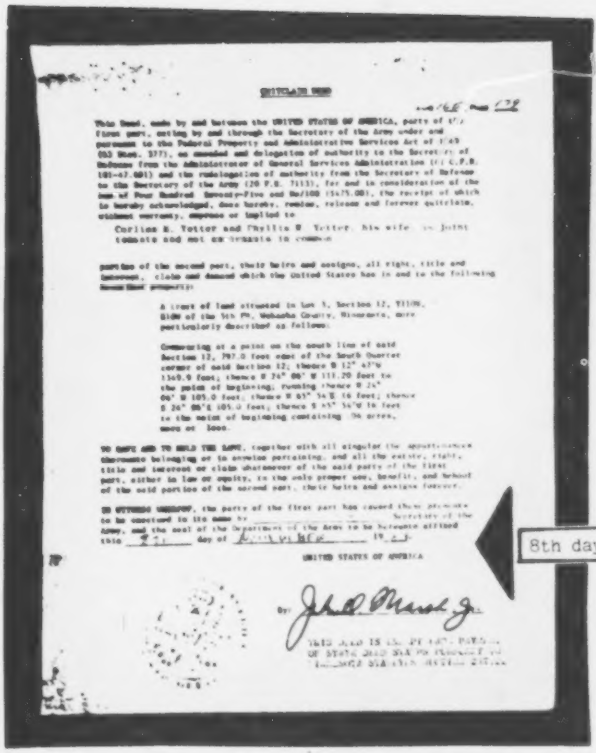
EXHIBIT K is included as evidence that legal documents were not required or scrutinized by professional engineers of the COE before including land transactions in a government document - THE MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION - supposedly submitted for Congressional approval.

This is supported by EXHIBIT J, a document distributed in September, 1983, identifying land as private exclusively owned property. Yet, a corrected deed is recorded six months later that corrects the description of land conveyed.



Note that 40 feet east of west bank denotes navigable waters of U.S.A. was included.

Exhibit L



QUITCLAIM DEED

Book 165 Page 179

This Deed, made by and between the UNITED STATES OF AMERICA, party of the first part, acting by and through the Secretary of the Army under and pursuant to the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended and delegation of authority to the Secretary of Defense from the Administrator of General Services Administration (41 C.F.R. 101-47.601) and the redelegation of authority from the Secretary of Defense to the Secretary of the Army (20 F.R. 7113), for and in consideration of the sum of Four Hundred Seventy-Five and No/100 ($475.00), the receipt of which is hereby acknowledged, does hereby, remise, release and forever quitclaim, without warranty, express or implied to

Carlton B. Yetter and Phyllis B. Yetter, his wife, as joint tenants and not as tenants in common

parties of the second part, their heirs and assigns, all right, title and interest, claim and demand which the United States has in and to the following described property:

A tract of land situated in Lot 3, Section 12, T110N, R10W of the 5th PM, Wabasha County, Minnesota, more particularly described as follows:

Commencing at a point on the south line of said Section 12, 797.0 feet east of the South Quarter corner of said Section 12; thence N 12° 47'W 1369.9 feet; thence N 24° 06' W 111.20 feet to the point of beginning; running thence N 24° 06' W 105.0 feet; thence N 65° 54'E 16 feet; thence S 24° 06'E 105.0 feet; thence S 65° 54'W 16 feet to the point of beginning containing .04 acres, more or less.

TO HAVE AND TO HOLD THE SAME, together with all singular the appurtenances thereunto belonging or in anywise pertaining, and all the estate, right, title and interest or claim whatsoever of the said party of the first part, either in law or equity, to the only proper use, benefit, and behoof of the said parties of the second part, their heirs and assigns forever.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be executed in its name by ______________ Secretary of the Army, and the seal of the Department of the Army to be hereunto affixed this 8th day of November 1983.

UNITED STATES OF AMERICA

By: John O. Marsh Jr.

[illegible]

$475 for .04 acre of federal shoreline property should set precedent for selling of shoreline property to current lessees & others whose property is adjacent to strips of federal shorelines.

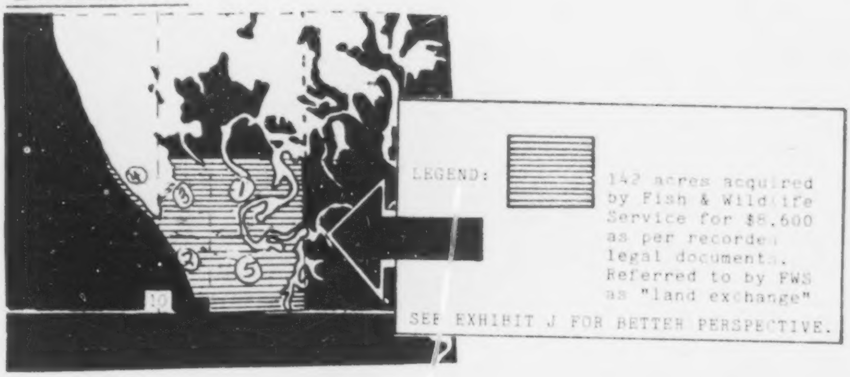
This property was under jurisdiction of Corps of Engineers and was sold by that federal agency.

8th day of November, 1983

During the time frame the above shoreline property was being negotiated and finally transacted by the U.S. Army Corps of Engineers, a simultaneous lobbying effort was being made by the Corps to keep legislation from being included in S1739 that would continue the lease and permit program along the Upper Mississippi River. Such legislation was in place in HR3678.

The U.S. Army Corps of Engineers were successful in these lobby efforts. Yet, the selling of this shoreline property identified above in Pool 4 (Book 165, Page 179) plus allowing over 100 families (75+ members of Teepeeota Channel View Corporation and 25+ members of Wabasha Trails End Corporation) to obtain private exclusive ownership of 40 feet out into navigable waters denotes gross discrimination by our government against citizens who are destined to be kicked off these same shorelines.

Exhibit M



LEGEND: ▤ 142 acres acquired by Fish & Wildlife Service for $8,600 as per recorded legal documents. Referred to by FWS as "land exchange"

SEE EXHIBIT J FOR BETTER PERSPECTIVE.

If one was to check DEED RECORD No. 97 - Wabasha County Recorder Office, Wabasha, Minnesota - one will find that the 142 acres of land acquired by the FWS in 1983 is land that was owned by Andrew Binner and Anna Budde prior to constructing Lock & Dam #4 in the 1930's. Andrew Binner owned parcels 2, 3 and 4 while Anna Budde owned parcels 1 and 5. These parcels are so identified on the accompanying map.

According to information in the deed, the land was acquired "for the purpose of improving navigation in the Mississippi River." Flowage easement was obtained for these 5 particular parcels for which our government paid $9,048.20 in judgement and interest. A small parcel identified as 54B was included.

A RECAP REGARDING TAXES PAID IN RECENT YEARS ATTRIBUTED TO THIS LAND APPEARS ON OPPOSITE PAGE.

Exhibit N

THE BELOW RECORD DENOTES TAXES PAID TO WABASHA COUNTY, MINNESOTA DURING FIVE YEAR PERIOD PRIOR TO FWS ACQUIRING THESE 142 ACRES. TAXES WERE PAID BY LEIGH HARTERT ON 173.48 ACRES AND BY MR. FRANKLIN BINNER (deceased) ON 194.42 ACRES. IT IS ASSUMED, FOR THIS PRESENTATION, THAT A PER ACRE COST CAN BE ESTABLISHED AND THEN DISTRIBUTED TO THE INDIVIDUAL PARCELS TOTALING 79.58 and 62.33 ACRES RESPECTIVELY.

PARCELS 1 and 5	PARCELS 2, 3 & 4
Leigh Hartert	Mrs. Franklin Binner
Non Homestead Classification	Homestead Classification

YEAR	TAXES PAID 173.48 AC	PRORATED COST	TAXES ATTRIBUTED TO 79.58 ACRES	TAXES PAID 194.42	PRORATED COST	TAXES ATTRIBUTED TO 62.33 ACRES
1979	$ 971.80	$5.60	$445.65	$915.62	$4.71	$293.57
1980	1,098.84	6.33	503.74	925.58	4.76	296.69
1981	967.80	5.58	444.06	640.14	3.29	205.07
1982	1,120.28	6.46	514.09	796.88	4.10	255.55
1983	1,297.94	7.48	595.26	771.30	3.97	247.45

THE ABOVE 79.58 DIVIDED OUT IN 1984

THE ABOVE 62.33 DIVIDED OUT IN 1984

It is imperative that Congress look at the practice of federal agencies taking income producing lands off county tax rolls as exemplified in this particular land exchange. If the tax production of these 142 acres can be magnified over the entire Inland Waterway System, the loss to counties in taxable income would be monumental. On the other hand, if it is true that the FWS pays counties for lands under its jurisdiction (as reflected in note April, 1985 from Wabasha County Official) then the taxpayer is caught in a crossfire from which there is no escape and is penalized from either direction. Both methods contribute most heavily toward an increasing national debt.

The Upper Mississippi River-Land Allocation map illustrated in EXHIBIT J is a "bureaucratic fantasy." This one exhibit covers approximately an area one mile extending north & south and approximately two miles east & west. Yet, the land distribution between the FWS and COE, as identified in shades of brown, is ridiculous and administrately expensive. If one scrutinizes the entire 66 plates of this document, covering approximately 238 miles of the river, one will find an administrative nightmare in shades of brown that reeks of bureaucratic perpetuation of "look busy nonsense" as reflected in EXHIBIT F where thirteen staff members spent three days discussing land conflicts, etc. Magnify this picture to the same Inland Waterway System and one sees the need to change a focus of absorbing more land for the bureaucrats to fight over to that of selling these lands for the production of income into these many counties for which the American citizen is capable. The economic picture will then reflect decreasing administrative costs while income from taxes and other generation of productivity will increase.

A 1979 survey showed millions of dollars generated into economies of communities along the river by lessees and permittees through personal property taxes on federal lands, purchases of marine and recreational equipment/supplies, road maintenance supplies, building materials, etc.

The U.S. Army Corps of Engineers, through the lease/permit terminations, wants to do away with such productivity while profusely lobbying for a MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION that will guarantee a perpetuation of a "look busy posture" for many years.

Exhibit O

News Release

US Army Corps of Engineers
St. Paul District
1135 USPO & Custom House
St. Paul, Mn. 55101

Release No. PA-14-82
For Release 14 December 1982
Contact James E. Braatz
Public Affairs Office
Phone (612) 725-7505

NOTICE TO THE EDITORS

Our agency's planning document, the Upper Mississippi River Land Use Allocation Plan, greatly affects public and private users of federal land on the river, and it may be controversial. To help you understand the Corps' role and efforts in the planning process, we will be available to meet directly with you for interviews on Jan. 5 through 7 or on the day of the public meetings. To arrange an interview, call project coordinator Jim Holleran at (612) 725-7233.

UPPER MISSISSIPPI RIVER LAND USE ALLOCATION PLAN PUBLIC MEETING SCHEDULE

St. Paul, Minn.--The St. Paul District, Corps of Engineers, will conduct three formal public meetings to obtain comment on its recently-published draft Land Use Allocation Plan. This document addresses future public and private uses of federal land managed by the Corps along the Upper Mississippi River from St. Paul, Minn., to Guttenberg, Iowa.

The draft Land Use Allocation Plan has been sent to community libraries all along the river where they are available for public review.

The following public meetings will be held, weather permitting: Jan. 10 at the Winona Area Technical School Auditorium, Winona, Minn., 7 p.m.; Jan. 11 at Viterbo College in the Main Auditorium, La Crosse, Wis., 7 p.m.; and Jan. 12 at Lansing High School, Lansing, Iowa, 7 p.m.

These meetings are intended to provide an opportunity for the public to ask questions and to comment on the draft Land Use Allocation Plan. A court reporter will make a public * record of all of the meeting comments.

Anyone wishing to submit a formal statement should make an oral summary at the meeting and submit a written copy of his or her statement to be attached to the meeting record. Meeting participants should limit their oral statement to less than seven minutes so that everyone may have an opportunity to be heard.

If you have any questions about the meetings, call La Crescent Field Office manager Dick Otto at (507) 895-6341.

* IS IT RECORDED THAT COE and FWS DIVULGED PLANS TO ALLOW SHORELINES ALONG Teepeeota Point PLUS 40 FEET OUT INTO NAVIGABLE WATERS TO BECOME PRIVATE EXCLUSIVELY OWNED PROPERTY?

Exhibit P

A REVIEW OF EVENTS BY CHRONOLOGICAL LISTING

1970's
COE AND FWS begin aggressive action toward kicking lessees off shorelines and refuse to accept campsite activities into recreational study in segment of GREAT.

1978
Mary Swanger appointed to Minnesota-Wisconsin Boundary Area Commission and is officer of the Teepeeota Channel View Corporation - a group of 75+ members who have cottages along Teepeeota Point adjacent to 40-50 feet strips of federal shorelines.

1981
Co-charman
Announced herself as Co-chairman for the Public Participation Work Group of GREAT I STUDY - a study under the auspices of U.S. Army Corps of [illegible] and a forerunner to the UPPER MISSISSIPPI RIVER-LAND ALLOCATION PLAN (EXHIBIT D).

For Your Ap
Please Ad

July 22, 1982
Federal Register, Vol. 47, No. 141 Page 31829 and 31830 clearly defines "navigable waters" and so states "Once having attained the character of 'navigable in law' the Federal authority remains in existence, and cannot be abandoned by administrative officers or court action" (EXHIBIT B).

Summer, 1982
COE and FWS hold three day intensive staff meeting. Land disputes, negotiations, compromise, etc. are recorded in federal document. Yet, no minutes or notes were taken during the meetings (so it's said) relating to federal lands in Pool 4 where Teepeeota Point is located (EXHIBIT F). If no notes or minutes were recorded then how did this information get into the Draft for Upper Mississippi?

September, 1982
Draft for UPPER MISSISSIPPI RIVER-LAND ALLOCATION is distributed by St. Paul District COE. To be used in conjunction with Public Input Meetings to be held in communities along the river.

The above three day staff meeting relating to land conflicts, negotiations, etc. is found on Pages 49 and 55 of this document.

Plate 26 of this document shows land along Teepeeota Point to be federal shorelines (EXHIBIT I).

December 27, 1982
Offer is made to Teepeeota Channel View Corporation that allows them to have private exclusive ownership of federal lands plus 40 feet out into navigable waters of U.S.A. Such a deal gives members exemption from previously required boat dock permits and other regulatory requirements (EXHIBIT G).

January, 1983
PUBLIC INPUT MEETINGS are held in the area of Teepeeota Point by COE and FWS without any mentioning of plans to allow Teepeeota Point to become private exclusive ownership. YET, MEETINGS WERE FOR THE PURPOSE OF SHARING PLANS FOR ALLOCATION OF FEDERAL LANDS IN ORDER THAT PUBLIC COULD GIVE INPUT INTO THOSE PLANS.

Yet, when these federal agencies were asked why leases and dock permits were being terminated in 1989 both agencies responded, **"To discourage private exclusive use of federal lands."**

September, 1983
FINAL PRINTING OF MASTER PLAN FOR UPPER MISSISSIPPI RIVER-LAND ALLOCATION IS RELEASED WITH ACKNOWLEDGEMENT OF MINNESOTA-WISCONSIN BOUNDARY AREA COMMISSION (EXHIBIT C).

On Plate 26 of this document the shorelines along Teepeeota Point are color coded to identify as private property (EXHIBIT J).

September 12, 1983
Land sold to Teepeeota Channel View Corporation by U.S.A. is recorded this date in Book 165, Page 79 at Recorder of Deeds Office in Wabasha county, Minnesota. Price so stated on deed shows $8,600 for 11.63 acres, more or less (EXHIBIT K).

November 3, 1983
Date on FWS news release announcing land exchange at Teepeeota Point. This federal news release fails to announce that 40 feet out into navigable waters of U.S.A. is included. The news release is also 52 days "after the fact" (EXHIBIT H).

November 8, 1983
Quitclaim Deed is recorded in Book 165, Page 179 at Wabasha County Recorder's Office showing U.S. Army Corps of Engineers sold shoreline property to C.H. Yetter (.04 acres for $475). This shoreline property is only a short distance south of Teepeeota Point (EXHIBIT L).

November 10, 1983
Parcel of land received by Mary Swanger from Teepeeota Channel View Corporation is recorded in Book D165, Page 550 at [illegible] Office, Wabasha, Minnesota (EXHIBIT D).

For Your Approval
Please Advise

November 15, 1983
Announcement of land exchange appears in Rochester Post Bulletin. No mention is made to inclusion of 40 feet out into navigable waters because FWS did not disclose this fact in news release (EXHIBIT E).

March 27, 1984
Corrected Deed filed in Book 165, Page 460 in Wabasha County to correct land description September 12, 1983 (EXHIBIT K).

July 3, 1984
COE admit to "minimal participation" in land exchange (EXHIBIT A).

January 18, 1985
Court upholds "Navigable Water" interpretation as ebb and flow created by construction of dam (EXHIBIT B).

UNITED STATES CONFERENCE OF MAYORS
1620 EYE STREET, NORTHWEST
WASHINGTON, D.C. 20006
TELEPHONE: (202) 293-7330

STATEMENT OF

THE UNITED STATES CONFERENCE OF MAYORS

on

WATER RESOURCES AND THE CITIES

Before the

SUBCOMMITTEE ON WATER RESOURCES
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

May 10, 1985

Mr. Chairman, Senator Moynihan and members of the Subcommittee, the U.S. Conference of Mayors is pleased to present our views on S. 366, "The Water Resources Development Act of 1985". The Conference was honored to work with you on behalf of similar legislation in 1983 and 1984. We hope that this year sufficient consensus will form to achieve speedy enactment of national water resources legislation.

Infrastructure issues have always been important to cities. In the years to come, there will be intense focus on the techniques and strategies cities employ for infrastructure repair and rehabilitation and expansion, as existing federal grant programs and tax system tools fail to meet basic needs. Now is a good time to introduce new ideas and initiatives in the water resources infrastructure finance partnership.

S. 366 makes excellent strides towards this new partnership. "Title VIII-Water Supply Loans" outlines a particularly sensible approach consistent with fiscal realities at both the federal and local levels. Title VIII has several virtues:

- it concentrates on loans made to municipalities on a priority needs basis;

- it permits the full professional evaluation by the Army Corps of any loan request;

- it provides for the input by the states in recommending which loans are to be made;

- it ensures that communities institute model water conservation programs to the best of their ability consistent with local conditions;

- it targets loans to meet specific water resources infrastructure needs but remains flexible in permitting localities to determine what projects to emphasize.

In our 1983 report with the National League of Cities "Capital Budgeting and Infrastructure in American Cities", the Conference determined that:

- infrastructure is a national issue;
- investment in infrastructure means private sector jobs;
- city infrastructure needs vary widely;
- infrastructure needs are great but we need not be paralyzed by their magnitude;
- federal and state resources will be required to fully meet infrastructure needs.

In this survey, some 67.4 percent of cities responding stated that stormwater collection and drainage systems were in need of major repair, rehabilitation or replacement; for water storage facilities the figure was almost twenty percent; for water distribution facilities almost one-third.

The needs are great and the foundations of the funding partnership with local government and the private sector are in place awaiting the development of federal policy in this area. S. 366 is a good start towards achieving the proper role of the federal partner. There have been several suggestions for changes in the structure and approach of Title VIII and we would look forward to discussing and reviewing those with the Subcommittee for the purpose of improving this much needed legislation.

The Conference appreciates the opportunity to comment and looks forward to continuing to work with the Committee to achieve this worthy goal.

UNITED STATES LINES, INC.

27 COMMERCE DRIVE, CRANFORD, N.J. 07016 (201) 272-9600 TLX-844196

May 10, 1985

The Honorable James Abdnor
Chairman
Senate Subcommittee on Water Resources
Room 625
Dirksen Senate Office Building
Washington, DC 20510

Re: Water Resources Subcommittee -
S. 366 and S. 534

Dear Chairman Abdnor:

United States Lines, Inc. is headquartered in Cranford, New Jersey and operates one of the largest container transportation systems in the United States, with an active fleet of 36 oceangoing U.S. flag cargo vessels and approximately 87,600 containers and 8200 chassis, and with direct service to almost forty ports on five continents. U.S. Lines serves U.S. ports on the East Coast, West Coast, Hawaii and the territory of Guam.

U.S. Lines supports the efforts of the Subcommittee to report out a port modernization and development bill. We are, however, concerned about the exposure to tremendous port cost increases which the user fee section of S.366 would engender. We believe that the user fee section in the House bill (H.R.6) is much more equitable as it would not cause the radical change in channel dredging financial responsibilities that S.366 would entail.

The maritime and export-import interests of this nation need port improvement authorization legislation to be passed this session so that America's ocean-going fleets can take advantage of the most modern developments in ship design. One example of what we are talking about is U.S. Lines program to build the twelve largest and most technologically advanced containerships in the world. In order for these vessels, seven of which have already been delivered to USL thus far, to have full utilization of the port of New York at all tides, New York City's channels need to be dredged to levels deeper than the current 35 foot depth. Without full utilization there is a substantial slow down in vessel turn-around time at the port with resultant major increases in cost and productivity.

We are extremely concerned that S.366 and S.534 do not include the Arthur Kill channel dredging project.* The Arthur Kill channel dredging project is vitally important to U.S. Lines. The City of New York and the Port Authority of New York and New Jersey strongly support this project. Indeed, Susan Frank, the Commissioner of Ports and Terminals for New York City, testified before the House Appropriations Committee on March 28, 1985 that the Arthur Kill project is "of the highest priority to the City of New York" in the area of water resources projects.

The Arthur Kill waterway is between Staten Island, New York and New Jersey and is the approach to Howland Hook Marine Terminal, New York City's largest container facility and U.S. Lines' home port. The growth and continued efficient operation of Howland Hook Marine Terminal is dependent on the Arthur Kill dredging project.

S.366 and S.534 already contain authorization for the Kill Van Kull and Newark Bay channel dredging project. These are adjacent waterways to the Arthur Kill serving terminals which are competitive with Howland Hook Marine Terminal. If funded, the Arthur Kill project is scheduled to be completed just after the Kill Van Kull and at about the same time as Newark Bay. The Army Corps of Engineer's Report from the New York District Engineer recommends that $55,000,000 in federal funds be authorized to widen and deepen the Arthur Kill channel to forty-two feet.

Deepening to forty-two feet is required because the channel presently is only thirty-five feet deep at low tide, and U.S. Lines' twelve new containerships require forty feet at low tide. This major expansion of the U.S. flag merchant marine represented by the twelve new Econships also represents an investment of $1 billion by U.S. Lines.

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* H.R. 6 currently before the House Committee on Public Works and Transportation does include the Arthur Kill project.

Without the Arthur Kill project, the usefulness of Howland Hook will be severely and critically compromised and the efficient deployment of this major vessel investment will be denied. We urge the Subcommittee to include the Arthur Kill project in S.366 and S.534.

United States Lines, Inc.

By: Alan R. Twaits
Alan R. Twaits
General Attorney

ART/jad
cc: Senator Daniel Patrick Moynihan
Senator Alfonse D'Amato
Senator Bill Bradley
Senator Frank Lautenberg
Congressman Robert Roe
Congressman Guy Molinari
Commissioner Susan Frank - NY City Dept. of Ports & Terminals
Anthony J. Tozzoli, Director - Port Auth. of NY & NJ
Paul Bea, Washington Rep. - Port Auth. of NY & NJ
William Van den Broek, Legislative Rep. - Port Auth. of NY & NJ

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20314

REPLY TO
ATTENTION OF:

DAEN-CWP-G

Honorable Robert T. Stafford
Chairman, Committee on Environment
  and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I read with interest your bill (S. 968) which would amend the Water Supply Act of 1958, and accompanying remarks, as contained on pages S 4465 and S 4466 of the April 22, 1985, Congressional Record. Recognizing your remarks were based on an August 7, 1981, report of the General Accounting Office, I would like to take this opportunity to present you with the current status of the Corps "Municipal and Industrial" (M&I) water supply program.

The Corps Tulsa District has 23 percent of the Corps nationwide total M&I water supply. The District currently has 1.41 million acre-feet of M&I storage space in 28 operational projects; 69 percent of which is under contract. There is an additional 65,000 acre-feet of M&I storage space in two projects which are under construction; 100 percent of which is under contract.

Nationwide, as of May 1, 1985, there was 7.80 million acre-feet of M&I storage space in 105 operational projects; 86 percent of which is under contract in 162 separate agreements. We also have an additional 1.43 million acre-feet of M&I storage space in seven projects under construction; 99 percent of which is under contract in nine separate agreements. This total M&I storage space of 9.23 million acre-feet represents a Federal investment of $1.159 billion; 88 percent of which is under contract for repayment.

While we are encouraged that 88 percent of the storage space included in Corps projects for M&I water supply is under contract, we recognize this is not good enough. Therefore, in response to a directive from Mr. Robert K. Dawson, the Acting Assistant Secretary of the Army (Civil Works), we have within this past year instituted a two phase water marketing program.

This program addresses only that 1.13 million acre-feet not under contract. In the first phase, we contacted the non-Federal sponsors who had provided the original letters of assurance to determine their plans for using such storage. This exercise was very rewarding, indicating that by the year 2000 only about eight percent of the total 9.23 million acre-feet would not be under contract and that there was no apparent demand for less than three percent of the total.

We have now initiated the second phase of the water marketing initiative. Under this phase we are contacting governors, state agencies, local government entities, industries, and other potential buyers and informing them of this unused space. Hopefully, some of this remaining storage will shortly be placed under contract. The results of this phase are still being collected.

Regarding your specific amendments to the Water Supply Act, Administration cost sharing proposals and recent changes to our regulations move in the same direction of your bill. These items are as follows:

- Cost sharing proposal to require non-Federal sponsors to repay all investment costs allocated to water supply during the period of construction;

- Regulation change to require that interest expense on the investment cost on storage under future use contract be paid annually after expiration of the ten-year interest free period rather than accrued and added to the principal;

- Regulation change to require that annual operation and maintenance expense allocated to future use storage under contract be paid annually after expiration of the ten-year interest free period rather than becoming a Federal expense which is never reimbursed;

- Regulation change to limit the repayment period in water supply contracts to 50 years from the first water supply storage contract in each project rather than 50 years from the date of each contract; and

- Regulation change to require that non-Federal shares of major replacement and major rehabilitation costs be paid during construction rather than repaid over 25 years.

If I may be of further assistance in this area, please do not hesitate to contact me. Your interest in Corps of Engineers activities is very much appreciated.

Sincerely,

John F. Wall

John F. Wall
Major General, U.S. Army
Director of Civil Works